EIGHTH
ANNUAL REPORT
OF THE OFFICE OF THE
PUBLIC COMPLAINTS COMMISSIONER

OFFICE OF THE PUBLIC
COMPLAINTS COMMISSIONER

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Dear Mr. Attorney and Mr. Solicitor General:

Pursuant to Section 3(7) and Section 3(8) of the Metropolitan Toronto Police Force Complaints Act, 1984, I am pleased to enclose herein the Eighth Annual Report of the Office of the Public Complaints Commissioner.

Sincerely,

CLARE LEWIS
Public Complaints Commissioner

sp
encl.

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PART I - OVERVIEW OF COMPLAINTS SYSTEM; EXPANSION OF SYSTEM

A. AN OVERVIEW

The Office of the Public Complaints Commissioner began operations in 1981 pursuant to provisions of the Metropolitan Police Force Complaints Project Act, 1981. That Act was replaced by the Metropolitan Toronto Police Force Complaints Act, 1984, which became law on December 21, 1984, and which is included here as Appendix B.

A basic premise of the system is that the police force has the responsibility of performing initial investigation into complaints by members of the public. The vast majority of complaints are investigated initially by the police. The Act states that the Commissioner can take over an investigation on request of the Chief of Police, or when the Commissioner has reasonable grounds to believe that there has been undue delay or other exceptional circumstances in the conduct of the investigation, or at any time 30 days or more after the complaint has been filed. A significant part of the

Commissioner's function, therefore, is not initial investigation but, rather, the monitoring of the police investigation into the complaint. The Commissioner also undertakes review and re-investigation of the complaint at the request of the complainant after the Chief of Police has reached a decision on the complaint.

The monitoring function is possible because the Commissioner receives a copy of all complaints as soon as they are filed, as well as a copy of all monthly investigative reports as they are completed. The Commissioner maintains ongoing communication with the Public Complaints Investigation Bureau of the Force in regard to general issues pertaining to investigation as well as with reference to particular files.

If the complainant requests a review, the Public Complaints Commissioner can re-investigate the matter, and must make a decision about the complaint on the basis of the available evidence. If the Commissioner agrees with the decision of the Chief of Police, a review report is written and sent to the complainant, the subject officer, and the Chief of Police. Whether the Commissioner agrees

or disagrees with the Chief of Police, recommendations may be made to prevent the problem encountered by the complainant from recurring. Finally, if the Commissioner believes it is required in the public interest, the case may be sent to a Board of Inquiry. The Commissioner has no further decision-making power in such cases.

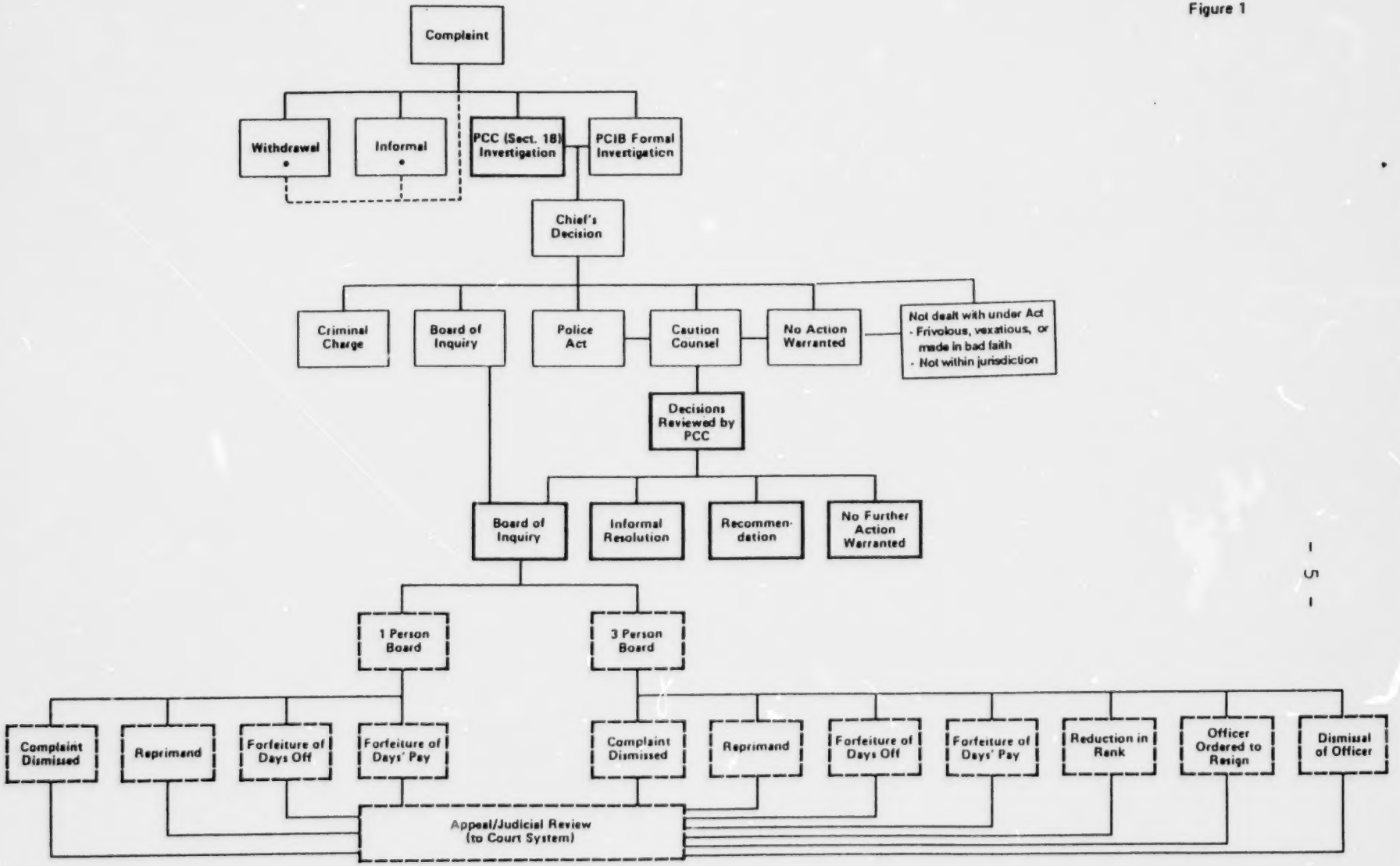
The Board of Inquiry tribunal consists of either one or three civilians depending on whether the complaint is minor or serious. The Board has the responsibility of holding a hearing into the complaint. The officer is usually represented by counsel and the complainant may also be represented. A lawyer representing the Attorney General presents the case, witnesses are called, evidence is tendered, and arguments of law are made. The legislation provides that misconduct can be established only if proved beyond a reasonable doubt. At the end of the hearing, the Board decides whether the officer is guilty of misconduct. If the Board concludes that the officer is guilty of misconduct, it may discipline the officer. Penalties range from a reprimand to dismissal from the police force.

The chart in Figure 1 shows the possible stages of a complaint. These stages can be roughly divided into the

police investigation and resolution stage, the Public Complaints Commissioner review stage, and the Board of Inquiry stage.

Please note that in the interest of clarity, the chart illustrates only the most commonly occurring events in the complaint system.

Figure 1



——— Area handled by Police

——— Area handled by Public Complaints Commissioner

– – – – Area handled by Board of Inquiry

* When a complaint is withdrawn or informally resolved, the Commissioner reviews the file and, in certain circumstances, has the power to overturn the withdrawal or the informal resolution. In these cases, the complaint continues through the system

B. EXPANSION OF THE SYSTEM

In November, 1987, legislation to permit province-wide expansion of the Office of the Public Complaints Commissioner was placed before the Legislature by the Attorney General and received first and second reading.

The Bill, An Act to Amend the Metropolitan Toronto Police Force Complaints Act, 1984, allowed any municipality in Ontario to choose to take advantage of the services of the Office of the Public Complaints Commissioner.

The Standing Committee on the Administration of Justice received submissions in Thunder Bay, Ottawa, Windsor and Toronto regarding the Bill.

The principle of expanding the system from Toronto to the province, including the Ontario Provincial Police, was supported by most of the presenters. However, the optional section of the Bill was criticised.

Most of the submissions, including some from police forces, associations and governing authorities suggested

that the expansion of the complaints process should be mandatory and include all municipal police forces in Ontario in addition to the Ontario Provincial Police.

This issue received further government consideration and, on December 20, 1989, Bill 107, An Act to Revise the Police Act and Amend the Law Relating to Police Services, (the Police Services Act, 1989) was introduced in the Legislature by the Solicitor General and received first reading.

Part VI of this Act establishes a mandatory system for the resolution of public complaints regarding the police for all police forces in the province, including the Ontario Provincial Police. Part VI of the Act will be administered by a Complaints Commissioner, who will report annually to the Attorney General. The proposed system contemplates the expansion of the Office of the Public Complaints Commissioner, under the new name of the Office of the Police Complaints Commissioner, to administer the process. With some modification, the system in force for Metropolitan Toronto is the basis for the mandatory province-wide expansion. The Act permits the Commissioner to establish regional offices throughout the province.

It is anticipated that the Act will be referred to The Standing Committee on the Administration of Justice for consideration. The Office of the Public Complaints Commissioner is, therefore, in the process of planning for expansion should the legislation become law.

PART II - RESEARCH AND STATISTICS

A. INTRODUCTION

Since its inception, the Office of the Public Complaints Commissioner has reported and analysed data taken from all closed complaint files, permitting the examination of the case-load from a statistical perspective. Careful analysis and study of complaints can also lead to suggestions for improving policing generally and to specific recommendations for change. In addition, the research enables the Commissioner to evaluate the functioning of the complaints process.

In 1989 there were 671 cases closed by the Office of the Public Complaints Commissioner. A "case" involves a single complainant making one or more allegations based on a single incident or series of incidents. A case is closed when all outstanding issues with respect to the allegations have been resolved. Because cases vary in complexity, they vary in duration. Some cases may be resolved quickly while others which require extensive investigation may last over a year.

B. RESEARCH DATA

1. The Incident

Every complaint results from an incident in which a member of the public has some contact with the Metropolitan Toronto Police Force. The first incident may evolve into more than one contact in more than one location. The location of the primary incident is shown in Table 1. The locations are listed by frequency of occurrence, with the most common being listed first. As in previous years, the most common location of the primary incident was the street (48.0%). The next most common location was a private residence (20.6%), followed by police buildings (13.4%).

TABLE 1

Location of Incident	Number	Percent
Street	322	48.0
Residence	138	20.6
Police Building	90	13.4
Public Place	87	13.0
Police Vehicle	15	2.2
Plaza/Mall	12	1.8
Schoolyard/Park	7	1.0
TOTAL	671	100.0

A single incident may give rise to several allegations. The listing of allegations is presented in Table 2. The majority of complainants (59.9%) made more than one allegation. In total, 1,339 allegations were made. For each case, details of only the six most serious allegations were recorded.

There are two ways of examining the distribution of allegations. One way is by considering the total number of allegations. Thus, the 297 allegations of assault represent 22.2% of the 1,339 allegations that were documented. The other way is by considering the number of cases. Here the 297 allegations of assault represent 44.3% of the 671 cases. The percentage distributions are presented in Table 2 and Figure 2.

The 22 categories of allegations, grouped into four major areas, are presented in Table 2. The most common allegation is that officers failed to act according to proper police procedure (39.7%). This was followed by threatening or verbally abusive behaviour (34.0%) and by

physical assaults/excessive use of force (22.2%). Personal misuse of authority was cited in 4.1% of the allegations. For example, it was noted that in 34 or 5.1% of the cases, there was an allegation of improper use of the baton. These allegations included physical assault or improper threatening use of the baton. In 42 or 6.3% of the cases, complainants alleged improper handling of police firearms.

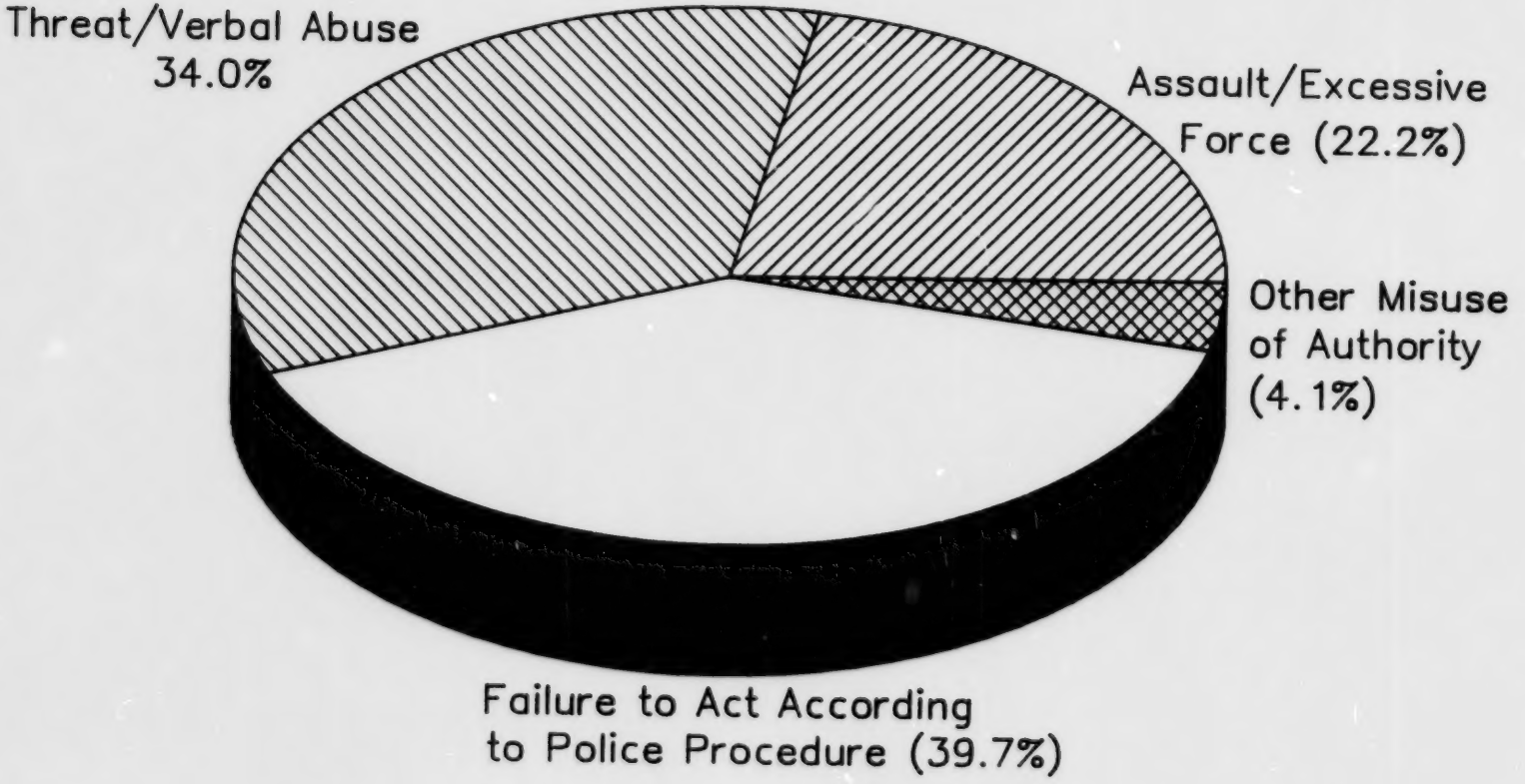
TABLE 2

TYPE OF ALLEGATION

(No. of Cases = 671)

	Number	% of Allegations	% of Cases
Failure to Act According to Police Procedure			
General	122	9.1	18.2
Neglect of Duty	120	9.0	17.9
Damage/Mishandle Property	78	5.8	11.6
Failure to I.D. Self	61	4.6	9.1
Improper Search/Entry	50	3.7	7.5
Improper Charge	49	3.7	7.3
Improper Arrest/Detention	39	2.9	5.8
Improper Use of Discretion	12	0.9	1.8
	531	(39.7)	
Threat or Verbal Abuse			
Incivility/Verbal Abuse	289	21.6	43.1
Harassment/Threat	145	10.8	21.6
Perceived Harassment/Threat	18	1.3	2.7
Verbal Sexual Harassment/Threat	4	0.3	0.6
	456	(34.0)	
Physical Assault/Excessive Force			
Assault with Injury	179	13.4	26.7
Assault	92	6.9	13.7
Assault while Restrained	23	1.7	3.4
Sexual Assault	3	0.2	0.5
	297	(22.2)	
Other Misuse of Authority			
Improper Driving	17	1.3	2.5
Theft/Corruption	14	1.1	2.1
Deceit	8	0.6	1.2
Breach of Confidence	6	0.4	0.9
Intoxication	6	0.4	0.9
Lying Under Oath	4	0.3	0.6
	55	(4.1)	
TOTAL	1,339	100.0	

Figure 2
Type of Allegation



The Commissioner, given the diverse ethnic and racial composition of Metropolitan Toronto, continues to be particularly concerned with any allegation of ethnic or racial bias by the police. In 53, or 7.9% of the complaints, there was some mention of a racial or ethnic statement being made. In a further 13, or 1.9% of the cases, a racial or ethnic statement was not alleged to have been made by the police, but the complainants stated that they perceived the treatment they received as racially or ethnically motivated.

The Commissioner believes that the low number of complaints alleging ethnic or racial bias is an entirely unreliable indicator of the current state of relations between the police and visible minority, particularly black, members of our community. There have been telling hearings of the Task Force on Race Relations and Policing, the Mayor's Committee on Race Relations and the Legislature's Standing Committee on the Administration of Justice. There have been public outcries following recent police shootings of black members of our community, and the trauma to police consequent on the laying of criminal charges against officers in these cases. The amount, nature, and frequency of protest from visible minority members of our community cannot be dismissed, and have made it abundantly clear that the formal complaints process is

not reflecting actual visible minority disaffection and sense of grievance. There are many impediments to the making of an official complaint by visible minority members of our community. Among those reported to the Commissioner are a continuing distrust of the process, and a perceived fear of recrimination.

The Office of the Public Complaints Commissioner continues its outreach efforts to minority communities and is seeking effective means to ensure better access to, and use of, the complaint system by all members of the public, to improve police and minority liaison and relations, and to alleviate some of these concerns.

In 6 or 0.9% of the cases there was some reference to a disparaging statement regarding homosexuality.

In describing the allegations, the actual incident which led to the contact between the complainant and the police was noted. It must be remembered that this notation represents the first point of contact; others may have occurred as the situation evolved. The three most common points of contact were traffic/accident investigation (27.3%), criminal investigation (27.3%) and arrest (22.1%). The remaining incidents are listed in Table 3.

TABLE 3

Precipitating Factor	Number	Percent
Traffic/Accident Investigation	183	27.3
Criminal Investigation	183	27.3
At Arrest	148	22.1
Domestic Incident	32	4.8
Parking Infraction	22	3.3
By-Law Infraction	9	1.3
Request for I.D.	5	0.7
Landlord/Tenant Issues	3	0.4
Other	13	1.9
None Apparent	73	10.9
TOTAL	671	100.0

In 316 or 47.1% of the cases, no charges were laid. The complainant was charged by the police in 337 or 50.2% of the cases. The details are presented in Table 4. In 98.8% of these cases, the charge was laid prior to the complaint being filed.

TABLE 4

Charge Against Complainant	Number	Percent
Highway Traffic Act Offence	152	29.5
Assault	58	11.2
Obstruct/Assault Police	55	10.7
Drug Offence	32	6.2
Theft/Possession of Stolen Goods	31	6.0
Alcohol Related Driving Offence	29	5.6
Property Offence	22	4.3
Liquor Offence	19	3.7
Weapons Offence	18	3.5
Robbery/Serious Violence	18	3.5
Cause a Disturbance/Breach of Peace	17	3.3
Municipal By-Law Offence	13	2.5
Escape/Breach Probation	10	1.9
Break & Enter and Related Offences	7	1.4
Criminal Driving Offence	7	1.4
Public Mischief	5	1.0
Other	22	4.3
TOTAL	515	100.0

There were 196 complainants (29.2%) who alleged some sort of physical injury occurring as a result of a confrontation with police. Of these, 48 (24.5%) alleged more than one injury. The details of these 244 alleged injuries are presented in Table 5. Of the alleged injuries, 66.0% involved cuts and bruises.

Of the 196 complainants who alleged injuries, 64 (32.7%) of the injuries were classified as minor, 68 (34.6%) were seen as being moderate, and 26 (13.3%) were serious. In 38 (19.4%) of the cases, there was insufficient information to determine the severity of injury. Of the complainants who claimed injuries, 112 (57.1%) sought medical attention or treatment for their injuries.

On the basis of the description in the allegations, medical reports and photographs, the office researcher made a subjective evaluation of injuries. The criteria used were as follows:

MINOR INJURIES: require little or no medical attention, such as scratches, minor headaches, etc.,

MODERATE INJURIES: have visible or identifiable signs, such as cuts, bruises, etc.; and

SERIOUS INJURIES; such as fractures, teeth injuries, cuts deep enough to require stitches.

TABLE 5

Alleged Injuries to Complainant	Number	Percent
Cuts/Bruises	161	66.0
Injuries from Handcuffs	30	12.3
Internal	20	8.2
Fractures	15	6.1
Groin	6	2.5
Teeth	5	2.1
Unknown	7	2.8
TOTAL	244	100.0

2. Characteristics of Officers

Most allegations (88.2%) involved fewer than five officers. Specific data were collected on the first four officers listed in each complaint. The rank of these officers is shown in Table 6. Two thirds (65.8%) of the officers cited in the complaint were constables in the First Class category (usually, an officer must have served at least four years before gaining First Class status). Over three quarters (76.4%) of the officers had five or more years experience on the police force (Table 7).

TABLE 6

Rank of Police Officer	No.	%
Inspector or higher	7	0.7
Staff Sergeant	28	2.7
Sergeant	118	11.2
First Class Constable	692	65.8
Second Class Constable	42	4.0
Third Class Constable	69	6.6
Fourth Class Constable	53	5.0
Not Specified	43	4.0
TOTAL	1052	100.0

TABLE 7

Years of Service	Number	Percent	
Under 1 Year	41	3.9	
1 to 2	120	11.4	
3 to 4	43	4.1	
5 to 10	213	20.2	
11 to 15	371	35.3	
16 to 20	114	10.8	76.4
Over 20 Years	106	10.1	
Not Specified	44	4.2	
TOTAL	1052	100.0	

3. Police Division in which Complaint Arose

The police divisions in which the alleged incidents occurred are listed in Table 8. The largest number of complaints occurred in 52 Division (98, 14.6%). This division is responsible for the downtown core of Toronto. The next highest number of complaints (68, 10.2%) arose in 14 Division which is immediately west of 52 Division.

TABLE 8

Division of Occurrence	Number	Percent
11	23	3.4
12	24	3.6
13	31	4.6
14	68	10.2
21	10	1.5
22	22	3.3
23	25	3.7
31	38	5.7
32	35	5.2
33	21	3.1
41	37	5.5
42	28	4.2
43	7	1.0
51	47	7.0
52	98	14.6
53	26	3.9
54	25	3.7
55	47	7.0
Central Traffic Unit	18	2.7
Eastern Traffic Unit	8	1.2
Western Traffic Unit	7	1.0
Other	11	1.7
Unknown	15	2.2
TOTAL	671	100.0

4. Complaint Process Data

(a) Filing a Complaint

Members of the public can register a complaint about Metropolitan Toronto police actions at any police station, at the Public Complaints Investigation Bureau of the Metropolitan Toronto Police Force, or at the Office of the Public Complaints Commissioner at 157 Bloor Street West. Complaints were registered at the Office of the Public Complaints Commissioner in 40.3% of the cases, at a police station in 41.7% of the cases, and at the Public Complaints Investigation Bureau in 11.8% of the cases. The remainder of the complaints were initiated elsewhere and are presented in Table 9 (see also Figure 3). Almost one half (42.5%) of the complaints were filed either the day of the alleged incident or on the next day. Most complaints (82.1%) were filed within a month of the occurrence (Table 10).

TABLE 9

Location Complaint Filed	Number	Percent
Police Station	280	41.7
Office of the Public Complaints Commissioner	271	40.3
Public Complaints Investigation Bureau	79	11.8
Chief of Police	31	4.6
Police Commissions	5	0.8
Other	5	0.8
TOTAL	671	100.0

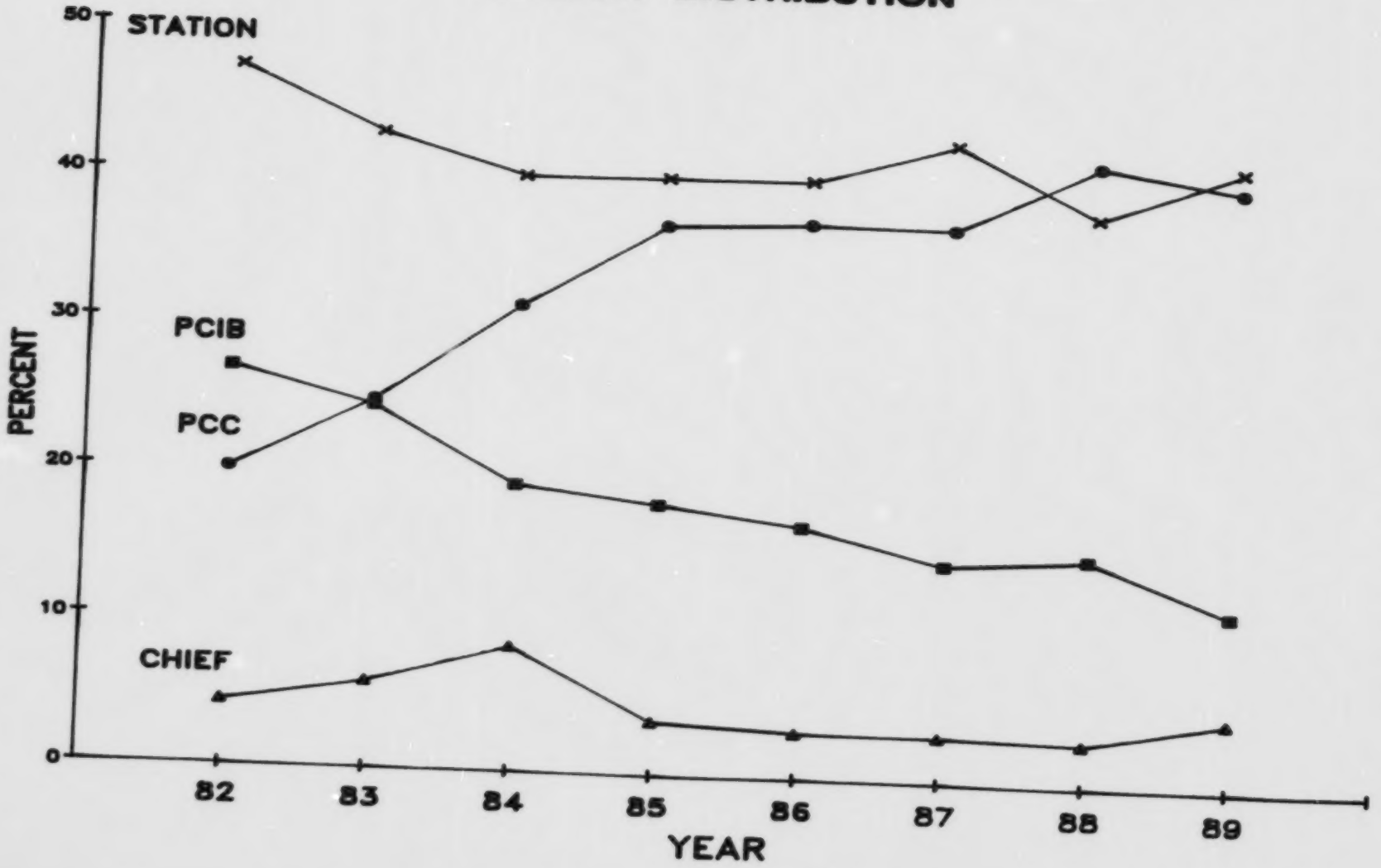
TABLE 10

Days: Occurrence to Filing	Number	Percent
Same Day	194	28.9
Next Day	91	13.6
2 - 31 Days	266	39.6
32 - 60 Days	26	3.9
61 - 90 Days	19	2.8
Over 90 Days	51	7.6
Unspecified	24	3.6
TOTAL	671	100.0

FIGURE 3

LOCATION WHERE COMPLAINT FILED

PERCENT DISTRIBUTION



ONLY MOST FREQUENT LOCATIONS PLOTTED

(b) Complaint Investigation

Most complaints are initially investigated by the Public Complaints Investigation Bureau of the Metropolitan Toronto Police Force. That Bureau is headed by a Staff Inspector and staffed by Staff Sergeants and Sergeants who are charged solely with the responsibility of investigating public complaints. The Public Complaints Commissioner has a statutory duty to monitor this initial investigation. On occasion, the Commissioner may undertake the initial investigation of a complaint or take over an investigation begun by the Public Complaints Investigation Bureau.

The civilian staff of the Office of the Public Complaints Commissioner can conduct the initial investigation of a complaint in three circumstances. They are: upon request by the Chief of Police; when there is unreasonable delay or other exceptional circumstances in the ongoing police investigation; or after receipt of the first interim report from the Public Complaints Investigation Bureau or the expiration of 30 days from the filing of the complaint. The Office of the Public Complaints Commissioner carried out 31 initial investigations in 1989.

Whether an investigation is conducted by the Public Complaints Investigation Bureau or the Office of the Public Complaints Commissioner, the initial decision as to whether discipline is warranted is made by the Chief of Police after the investigation is completed.

(c) Informal Resolutions

In 51 cases, complaints were resolved informally. A complaint is properly resolved informally if both the complainant and subject officer(s) agree in writing to the resolution. The reasons given for the informal resolution are presented in Table 11. In 37 cases the informal resolution was effected when the officer either admitted, apologized or explained his/her actions to the satisfaction of the complainant. In a further 4 cases the reason given was that the complainant was content to make the force aware of the incident.

In 10 cases, informal resolutions were coupled with disciplinary action. In 8 cases officers were counselled and or cautioned and in 2 cases officers were advised or spoken to by their superiors.

TABLE 11

Analysis of Informal Resolutions	Number	Percent
Officer admitted allegation, apologized or explained actions	37	72.6
Complainant content to make police force aware of complaint	4	7.8
Officer advised/spoken to by superiors	2	3.9
Officer counselled/and or cautioned	8	15.7
TOTAL	51	100.0

(d) Withdrawals

In 200 cases, the complaints were withdrawn by the complainant. This amounted to 29.8% of all cases closed in 1989. Legal advice was cited by 44 complainants as the reason for withdrawing their complaints. Another 35 complainants who withdrew their complaints stated that it was their desire merely to call attention to the incident or put it on record rather than follow through with an investigation. Thirty-two complainants reported personal

reasons for withdrawing their complaints. Seventeen of the withdrawals were attributed to an admission of error on the part of the complainant. The error was usually explained by the complainant having been intoxicated at the time of the incident so that a clear recollection of the events was impossible. In another 17 cases, the reasons for withdrawal were not stated. Another 5 withdrew their complaints stating that all their concerns or allegations had been dealt with in court. The remaining 50 cases were withdrawn for miscellaneous reasons. The full list of reasons for withdrawals is presented in Table 12.

This office continues to monitor all withdrawals and make inquiries of complainants as to the reason for their withdrawals to ensure that such withdrawals are not the result of misunderstanding, threats or other improper pressure.

TABLE 12

Reasons for Withdrawal	Number	Percent
Legal advice	44	22.0
Complainant wanted to draw attention to incident	35	17.5
Personal reasons	32	16.0
Complainant admitted error	17	8.5
Not stated	17	8.5
Concerns dealt with in court	5	2.5
Other	50	25.0
TOTAL	200	100.0

(e) Decisions by the Chief of Police

In 420 complaints (62.6% of files closed in 1989) which were neither withdrawn nor informally resolved, investigation by either the Public Complaints Investigation Bureau or the Office of the Public Complaints Commissioner was undertaken. Throughout the investigation, investigative reports are sent every 30 days to all involved parties including the complainant, the subject officer, and either the Office of the Public Complaints Commissioner or the Chief of Police, as appropriate. Whether the investigation is conducted by the Public Complaints Investigation Bureau or the Office of the Public Complaints Commissioner, upon completion, the file is presented to the Chief of Police or his designate for a decision.

In most of these cases (94.5%), the Chief concluded that no further action was warranted. In 192 of these cases, the Chief stated that there was insufficient evidence to prove misconduct beyond a reasonable doubt. In 44 of these cases, the Chief noted that the officer acted according to police procedure. In 15 of these cases, the Chief concluded that the evidence supported the officer's version of events. In 5 cases, the Chief offered an apology but no further action was taken. In another 2 cases the subject officers had resigned and therefore were

no longer subject to the legislation. In 139 (20.7%) of the cases, the Chief concluded that the complaint would not be dealt with under the Act. In 104 of these cases, the Chief decided the complaints were frivolous, vexatious or made in bad faith. In the remaining 35 cases, the Chief decided the complaint was not within the jurisdiction of the Act.

The Commissioner is concerned about many of the cases which the Chief decides are not within the jurisdiction of the Act. In a number of these cases, the complainants requested a review of the Chief's decision and the Commissioner found that although there may have been insufficient evidence to substantiate the complaint, the allegations nonetheless were within the jurisdiction of the Act since if they had been proved, they would have constituted misconduct. This police interpretation of the power to declare a complaint non-jurisdictional is a continuing concern of the Commissioner.

In a total of 33 cases, some discipline of the accused officer(s) was imposed. Ten of these cases involved informal resolution, whereas 23 were formal decisions made after full investigation. (See Table 13 for a complete breakdown of discipline imposed by the Chief.)

Discipline choices available to the Chief of Police in these circumstances are as follows:

Officer Advised/Spoken To: Without making a judgment as to whether there is substance to the allegation, a superior officer informally discusses the case with the subject officer and suggests better ways of dealing with the situation.

Counsel: A superior officer acknowledges that there is substance to the allegation, but that the conduct was judged to be unintentional or resulted from inexperience. A counsel is recorded on the police officer's file at headquarters.

Caution: As above for counsel. In addition, the officer is warned that further misconduct will result in charges pursuant to the Police Act.

Charge Under Police Act: The Chief of Police may charge the officer under the Police Act. In these cases, an internal disciplinary tribunal is convened. Misconduct must be proved beyond a reasonable doubt. Employment penalties can be imposed.

Board of Inquiry: The Chief of Police may refer the case to a public hearing before a civilian board of inquiry under the Metropolitan Toronto Police Force Complaints Act, 1984. Misconduct must be proved beyond a reasonable doubt and employment penalties can be imposed.

Charge Under Criminal Code: The Chief of Police may cause the subject officers to be charged under the Criminal Code.

Of the 23 cases in which discipline was imposed after full investigation, the Chief counselled the officer in 11 cases, and cautioned and counselled the officer in 2 cases. In 2 cases the officer was advised or spoken to. In a further 2 cases the unit commander imposed a penalty of 2 days time off. In one case the Chief had criminal

charges laid. Pursuant to the Chief's decision to charge officers under the Police Act, 5 disciplinary trials were completed in 1989. In one case the charge against the officer was dismissed. In 3 cases the officers were found guilty and forfeiture of days off was imposed ranging from 2 to 10. The remaining case resulted in the officer being forced to resign or face dismissal.

In all, 8 criminal charges against police officers were disposed of in 1989. One charge was laid by the Chief of Police (as noted above) and 7 by complainants. In 3 cases the charges were dismissed, in 3 cases the charges were withdrawn, and in 2 cases the officers were found guilty.

TABLE 13

Discipline Taken Against Police Officers
Nature of Resolution

Action	Informal	Formal	Total
Officer Spoken to/Advised	2	2	4
Counsel	7	11	18
Counsel and Caution	1	2	3
Police Act Charge	-	5	5
Criminal Charge	-	1	1
Days Off at Unit Commander Level	—	2	2
TOTAL	10	23	33

(f) Summary of Disposition of Complaints

Of the 671 complaints closed in 1989, the following dispositions took place:

WITHDRAWALS - 200

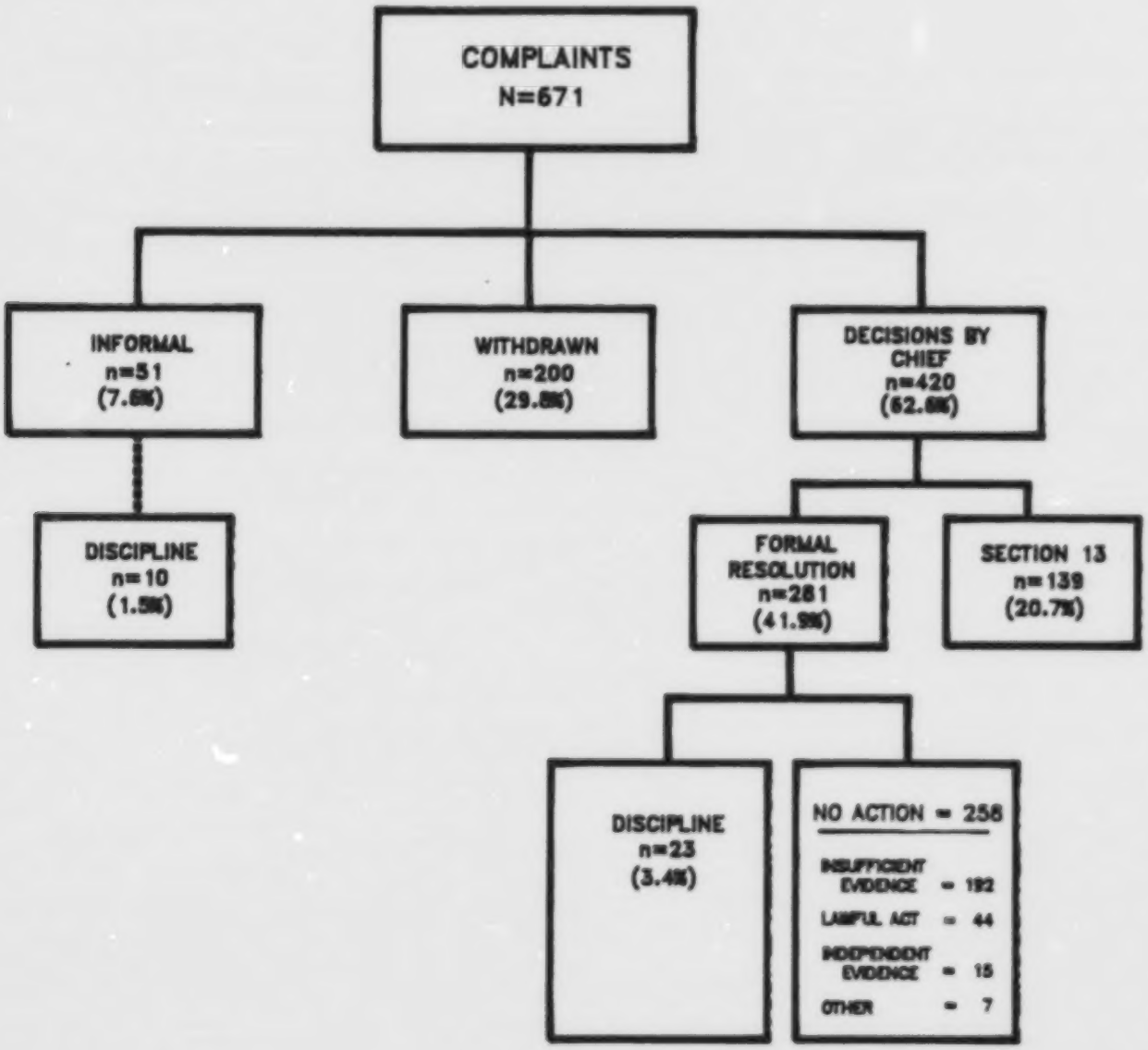
INFORMAL RESOLUTIONS - 51

DECISIONS BY CHIEF - 420

(See Figure 4).

An analysis was made comparing the type of allegation with the nature of the complaint resolution (Table 14). The major difference found was that the complaints which were resolved informally were less likely to involve an allegation of assault. There were no other noteworthy differences.

FIGURE 4
INITIAL DISPOSITION OF COMPLAINTS



Note: The percentages are relative to the TOTAL number of complaints

Table 14
COMPLAINT RESOLUTION BY TYPE OF ALLEGATION

ALLEGATION	INFORMAL		WITHDRAWN		FORMAL		SECTION 13		TOTAL	
	n	%	n	%	n	%	n	%	n	%
Assault/ Excessive force	9	10.6	95	22.1	133	23.5	60	23.2	297	22.2
Threat, Verbal Abuse	42	49.4	146	34.0	192	33.9	76	29.3	456	34.0
Failure to act according to police procedure	30	35.3	171	39.9	221	39.1	109	42.1	531	39.7
Other Misuse of Authority	4	4.7	17	4.0	20	3.5	14	5.4	55	4.1
TOTAL NUMBER OF ALLEGATIONS	85	100.0	429	100.0	566	100.0	259	100.0	1339	100.0
AVERAGE ALLEGATIONS PER COMPLAINT	1.7		2.2		2.0		1.9		2.0	

5. Reviews by the Public Complaints Commissioner

If the complainant is dissatisfied with the decision of the Chief of Police, including a decision that the complaint is frivolous or not within the jurisdiction of the Act, he or she has a right to request a review by the Office of the Public Complaints Commissioner. The Commissioner, however, has no jurisdiction under the legislation to initiate a review. Of the 139 cases in which the Chief decided the complaint was frivolous, vexatious or the complaint was not within the jurisdiction of the Act, 37 complainants requested a review of that decision.

In 1989, 134 reviews requested by complainants were completed. In 102 cases in which a review was completed, the Commissioner agreed in full or in part with the decision of the Chief. In 8 cases, the Commissioner decided that it was not in the public interest to order a hearing into the complaint. In 16 cases, the person who

had requested a review withdrew the complaint before the review was completed. In 2 cases, the Commissioner arranged an informal resolution of the complaint. Two cases resulted in Boards of Inquiry being completed. The remaining 4 cases resulted in formal recommendations being made. In all, 3 Boards of Inquiry were called in 1989 and one officer appealed a Police Act decision. (A section on Boards of Inquiry appears as Part V of this Report).

6. Length of Time Taken to Resolve Complaints

A record was kept of the time it took to resolve each complaint.

The number of days between the time the complaint was filed and a decision by the Chief of Police averaged 182. A representation of the number of days between filing and the final investigative report is presented in Table 15.

The number of days between a request for review by the complainant and a decision by the Public Complaints Commissioner averaged 154. Table 16 sets out these figures.

TABLE 15

Number of Days From Filing to Final Report	Number	Percent
1 - 30 Days	57	8.5
31 - 60 Days	83	12.4
61 - 90 Days	82	12.2
91 - 120 Days	83	12.4
121 - 150 Days	76	11.3
151 - 180 Days	46	6.9
181 - 270 Days	117	17.4
271 - 360 Days	53	7.9
Over 360 Days	74	11.0
TOTAL	671	100.0

TABLE 16

Number of Days From Review Request to P.C.C. Decision	Number	Percent
1 - 30 Days	16	11.9
31 - 60 Days	30	22.4
61 - 90 Days	11	8.2
91 - 120 Days	17	12.7
121 - 150 Days	11	8.2
151 - 180 Days	13	9.7
181 - 270 Days	14	10.5
271 - 360 Days	9	6.7
Over 360 Days	13	9.7
TOTAL	134	100.00

7. Work-load of the Office of the Public Complaints Commissioner

Data has been collected on the operations of the Office of the Public Complaints Commissioner since 1982. There are two major points of contact with the public. The first is upon receipt of the original complaint. The second is the reviewing of the police decision.

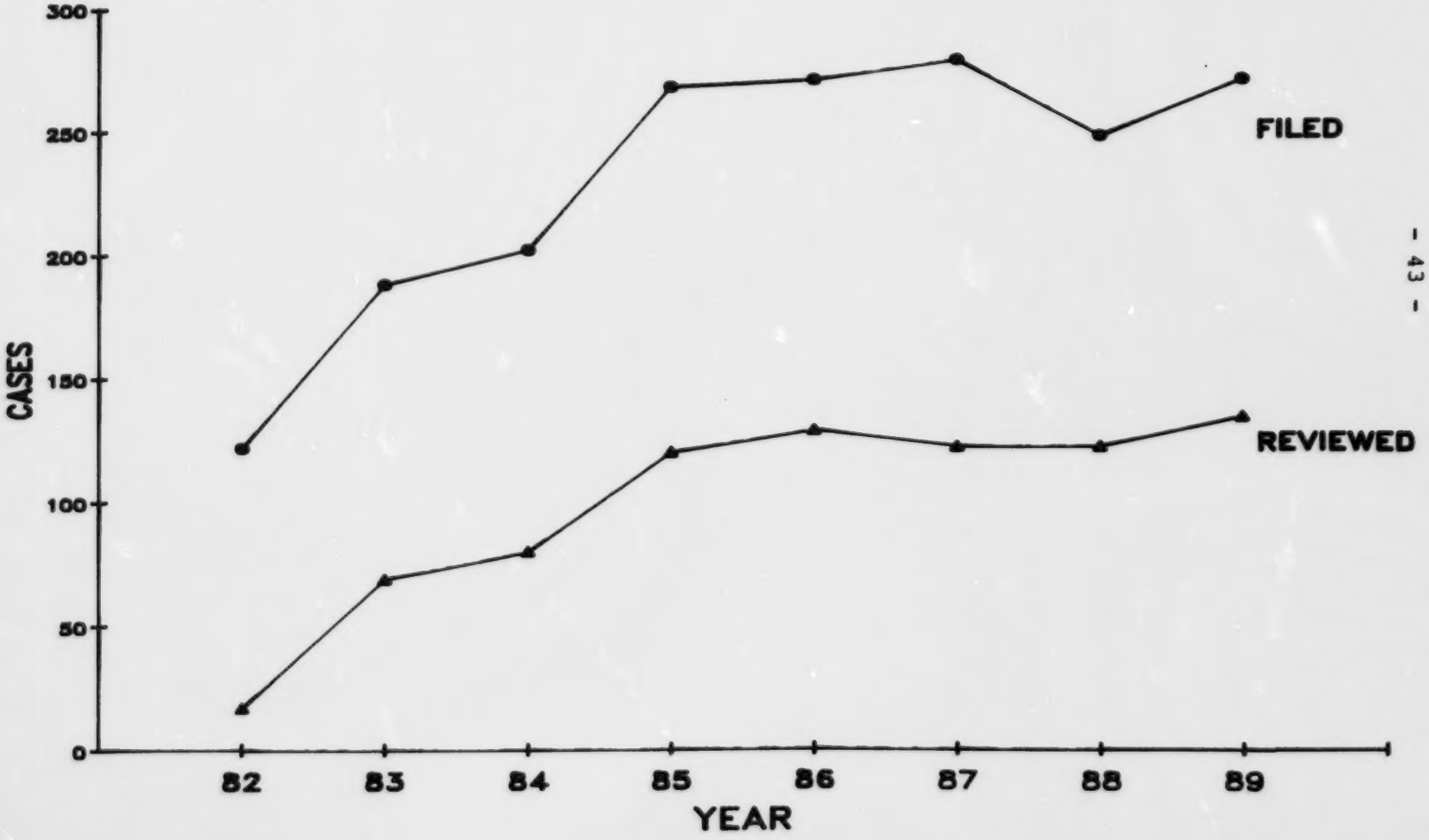
Of the total number of complaints filed, the number of complaints filed at the Office of the Public Complaints Commissioner has risen from 20% in 1982 to 40.3% in 1989. This increase is presented graphically in Figure 5. Requests for reviews have increased from 17 in 1982 to 134 in 1989.

As is apparent from the above figures, public demand for the services of the Office of the Public Complaints Commissioner has increased substantially since its inception.

FIGURE 5

WORKLOAD INDICATORS

PUBLIC COMPLAINTS COMMISSIONER



PART III - OTHER SIGNIFICANT ACTIVITIES

A. EDUCATION AND OUTREACH - POLICE AND PUBLIC

In 1989, the Public Complaints Commissioner continued regular appearances at the C.O. Bick Police College, for training sessions on the complaints legislation and its implications both for constables and for supervisory police officers. The Commissioner found these education sessions particularly useful in that they allowed for informal dialogue with members of all ranks of the police force. Since taking office in October 1985, the Commissioner has attended the C.O. Bick College for this purpose on 54 occasions.

Public education activities and consultations with the public continued throughout the year. Through meetings with individuals, community groups and social service agencies, the Office of the Public Complaints Commissioner undertook to improve public awareness of the Commissioner's role.

B. EDUCATION AND OUTREACH - DON JAIL INMATES

Staff members of the Public Complaints Commissioner's legal branch have been involved in the past year in attending at the Don Jail to address inmates. Periodic visits have been made to meet members of the "RAP" group, a group run by two lawyers and attended by approximately 20 inmates of the Don Jail at any given time. Various speakers, in attendance at the group's invitation, address the group during weekly meetings. The Office of the Public Complaints Commissioner has received a standing invitation to join with the "RAP" group periodically.

During past visits, staff members have alerted inmates to the service offered by the Office and have explained the complaint process in detail. The response to past sessions has been positive.

C. PARTICIPATION IN POLICE/COMMUNITY DIALOGUE

Part of the mandate of the Office of the Public Complaints Commissioner is to try to prevent, or avoid the escalation of, situations of misunderstanding or hostility between the police and the community. It became apparent during the course of the past year that further contact with minority communities in particular was necessary. In furtherance of this objective, the Public Complaints Commissioner's staff have been involved with a variety of groups created to deal with issues currently confronting the Metropolitan Toronto Police Force and the communities of Toronto and surrounding areas. The examples below represent the involvement of the Office of the Public Complaints Commissioner in issues which affect these disparate groups.

1. Council on Race Relations and Policing

The Council on Race Relations and Policing is a partnership between the Metropolitan Toronto Police Force and representatives of institutions, community agencies and

individuals with an interest in issues pertaining to race relations and policing. The organization was originally established in 1976 and its mandate includes bringing the above-noted groups and individuals together to discuss issues of mutual concern. It also aims to provide advisory assistance to other committees on race relations and policing by developing programs and strategies for joint problem-solving with the police force, developing public education programs and documenting and analyzing trends and experiences in the police/race relations field. The Office of the Public Complaints Commissioner has been represented on the Council since 1982 and office staff are active participants in the work of various subcommittees.

The Council this year made a commitment to intervene in situations that were occurring in the city that had the likelihood of developing into a crisis situation. Given the resources of a wide and dedicated group of community members and a strong involvement by the specialized units of the police force, the Council is in a unique position to bring together these groups to their mutual benefit.

2. The Greater Toronto Region Working Group on Policing in Multicultural, Multiracial Urban Communities

The Greater Toronto Region Working Group (the Working Group) was formed in 1984 to address policing issues arising out of the increasing plurality of our society. The Working Group is composed of representatives from the police forces of Hamilton-Wentworth, Durham Region, Halton Region, Metropolitan Toronto, Peel Region and York Region, as well as the Ontario Provincial Police, the Royal Canadian Mounted Police, representatives of various committees and levels of government and individuals with expertise in the areas of race and ethnic relations and cross-cultural communication. The purpose of the Working Group is to develop detailed plans of action by which police and the community can achieve more representative police forces, enhance cross-cultural training for police officers, improve citizen complaint procedures, and improve and coordinate police/community liaison activities. The Office of the Public Complaints Commissioner has been represented on the Working Group since its inception as a member and office staff at present serve on the steering committee.

During 1989, the Working Group completed its Guidelines for Intercultural/Race-Relations Training for Police Personnel, which was presented to the Attorney General and to the Solicitor General of Ontario. The Report was also widely distributed to community groups and to police forces.

3. Toronto Mayor's Committee on Community and Race Relations (Subcommittee on Policing)

The Toronto Mayor's Committee on Community and Race Relations was established in 1981 by the Council of the City of Toronto to promote understanding and respect among racial, cultural, ethnic and religious groups in Toronto. In August, 1988, the Committee revived its policing subcommittee which meets regularly and reports to the entire Mayor's Committee on a monthly basis. Issues dealt with in 1989 included the shootings of Lester Donaldson, Wade Lawson and Sophia Cook; the emergence of youth gangs in the Toronto area; submissions to the Task Force on Race Relations and Policing and to the Standing Committee on the Administration of Justice with respect to Bill 4, An Act to Amend the Metropolitan Toronto Police Force Complaints Act, 1984.

A member of the Public Complaints Commissioner's staff is participating in this group's efforts as a resource person.

4. Intergovernmental Race Relations Network

The Intergovernmental Race Relations Network, established in June, 1988, is a committee of race relations professionals who meet on a regular basis to share information and to develop strategies and procedures to address emerging race-related issues. In 1989, this group dealt with a wide range of issues including the shootings of Lester Donaldson, Wade Lawson and Sophia Cook; youth gang activities; police-community relations; the emergence of white supremacist groups and the distribution of racist materials within the Metropolitan Toronto area.

A member of the Public Complaints Commissioner's staff participates in the activities of this group.

5. Attorney General's Race Relations Committee

In 1989, the Attorney General's Race Relations Committee commissioned consultants to review the Ministry's services in order to determine if policies and operations

meet the needs of a multiracial, multicultural public. The Committee will be active in 1990 implementing the recommendations arising from the consultant's report and other projects.

A member of the Public Complaints Commissioner's staff participates as a member of this Committee.

D. THE "THINK TANK"

Midway through 1989 it became apparent that a need existed to review and re-evaluate matters of policy, procedure and administration at the Office of the Public Complaints Commissioner in order to assess the adequacy of such policies and procedures and to ensure consistency of application. It was also considered important to review these matters at this time to address specifically how current policies and practices might be affected by the passing into law of the proposed province-wide expansion of the Office of the Public Complaints Commissioner as provided for in Bill 107, the Police Services Act, 1989 currently before the Legislature.

As a result, the Commissioner conducted a two-day intensive session in November, 1989 attended by staff at which a wide variety of issues and ideas were discussed and developed. Areas of discussion included computerization of the office, file security and tracking, community outreach efforts, education of staff, the public and the police, the monitoring of complaints investigated by the police, delay in processing complaints and the conduct of Boards of Inquiry and appeals.

The meeting was successful in clarifying existing policies and procedures, identifying areas in which further review and action were required, and in developing areas of concern and interest to this Office in the future.

E. SEMINAR FOR BOARD OF INQUIRY MEMBERS

On October 12 and 13, 1989 a two-day Board of Inquiry seminar was held for the benefit of all Board of Inquiry members. A similar such seminar was held two years previously. It was felt that an updated seminar would be

useful for Board members, in particular those recently appointed. The Board of Inquiry seminar was also attended by investigative and legal staff of the Office of the Public Complaints Commissioner, and a number of senior police management personnel.

Professor Edward Ratushny of the Faculty of Law, University of Ottawa, was invited to attend the seminar and address a wide range of topics in the administrative law field. Specific topics such as rules of evidence, conduct of hearings, procedural fairness, decision making and decision writing were discussed. Specific provisions of the Statutory Powers and Procedures Act, and the Charter of Rights and Freedoms were also addressed.

The seminar offered Board members the opportunity to discuss general issues of concern in the area of the law governing administrative tribunals.

F. THE INTERNATIONAL ASSOCIATION FOR CIVILIAN OVERSIGHT OF LAW ENFORCEMENT (IACOLE)

The International Association for Civilian Oversight of Law Enforcement, of which the Public Complaints

Commissioner was President from September 1987 to 1989, was established in 1985. It provides an international exchange forum for those who work directly in civilian oversight of law enforcement or who are interested in the subject. The intent of the exchange is to encourage and strengthen government agencies charged with the responsibility of examining and commenting upon citizen complaints of police misconduct.

An arena for discussion and debate has been international conferences which have been attended by members of civilian oversight agencies, police executives, elected government representatives, police association officials, government administrators, civil rights/civil liberties advocates, lawyers and criminal justice educators from around the world. Representatives of civilian oversight agencies from Australia, Bermuda, Canada, England, Ireland, the Netherlands, Nigeria, Northern Ireland, Sweden and the United States of America have attended IACOLE conferences.

IACOLE has created a clearinghouse of published materials about civilian oversight of law enforcement. A catalogue separates the materials into general categories

and lists each publication with the title, author, publisher, a brief synopsis and where the publication can be obtained. The Association has printed the proceedings of its conferences and a booklet of selected conference speeches which are available through the clearinghouse.

A newsletter, which periodically publishes and highlights IACOLE activities, is a means of communication for civilian oversight agencies and reports on recent developments in the field, such as the establishment of a new oversight agency or changes in established agencies.

Membership in the Association is divided into two categories: members and associate members. Members are defined as "persons who are not sworn law enforcement officers and who work for or constitute agencies which are established by legislative authority to investigate and/or review complaints against law enforcement." Members are eligible to vote at Association meetings and to serve as officers. Associate Members are defined as "persons interested in the oversight of law enforcement." Associate members are permitted to participate in all Association activities except voting or serving as officers.

The Public Complaints Commissioner has served on the

Board of Directors of IACOLE as a member at large, Vice President, and in 1987 was appointed President. Since the Association's Annual Conference in Oakland, California in September of 1989, he serves on the Board of Directors as Past President.

The theme of the Oakland Conference, at which the Office of the Public Complaints Commissioner was represented, was "The Future of Civilian Oversight", with discussion focused on such topics as ensuring equal policing, dealing effectively with the media, and building stronger, more effective, oversight agencies.

PART IV - RECOMMENDATIONS TO THE METROPOLITAN TORONTO BOARD OF COMMISSIONERS OF POLICE

The Metropolitan Toronto Police Force Complaints Act, 1984, gives the Commissioner the power to make formal recommendations aimed at preventing situations which have given rise to complaints. Section 21 of the Act provides that the Commissioner may make recommendations to the Metropolitan Toronto Board of Commissioners of Police when the Commissioner is of the opinion that a police practice or procedure, or law affecting the resolution or prevention of complaints, should be altered or implemented. The recommendation power has proved to be a very useful tool in effecting change in cases in which it would be inappropriate to call a board of inquiry into specific allegations but in which it would be equally inappropriate not to act at all.

The year 1989 resulted in an increase in the number of recommendations, which included the following:

1. **THAT THE METROPOLITAN TORONTO BOARD OF COMMISSIONERS OF POLICE ADD TO THE METROPOLITAN TORONTO POLICE FORCE ADMINISTRATIVE PROCEDURES THE REQUIRMENT THAT ANY OFF-DUTY POLICE OFFICER INVOLVED IN A MOTOR VEHICLE ACCIDENT IMMEDIATELY IDENTIFY HIMSELF OR HERSELF TO THE INVESTIGATING OFFICER AS A POLICE OFFICER AND THAT SUCH ACCIDENTS BE INVESTIGATED BY A SUPERVISOR.**

During the year, the Office of the Public Complaints Commissioner received a complaint from a citizen who had been involved in an automobile accident in which the driver of the other vehicle was an off-duty police officer. The complainant's perception that the investigating officer displayed preferential treatment to the off-duty officer was reinforced when he was subsequently exonerated from blame and the complainant was found responsible.

The Commissioner, after inquiring into the details of the accident, recommended that police administrative procedures be amended to require that any off-duty police officer involved in an automobile accident immediately identify himself or herself to the investigating officer as a police officer. It was also recommended that such accidents be investigated by a supervisor.

The police recognize the potential for real or

perceived conflict of interest in such situations and are currently revising their regulations to address such conflicts.

2. **THAT THE BOARD OF COMMISSIONERS OF POLICE SEEK TO ADD TO THE METROPOLITAN TORONTO POLICE FORCE OPERATIONAL PROCEDURES THE REQUIREMENT THAT EVERY POLICE OFFICER WHO DRAWS OR DISPLAYS A FIREARM IN THE PERFORMANCE OF FORCE DUTIES MUST REPORT THE DETAILS OF THE OCCURRENCE TO THE CHIEF OF POLICE, DISTRICT STAFF SUSPERINTENDENT AND UNIT COMMANDER.**

FURTHER THAT THE SOLICITOR GENERAL EXAMINE THE FEASIBILITY OF AMENDING REGULATION 790 PURSUANT TO THE POLICE ACT TO INCORPORATE SUCH A REQUIREMENT.

An increasing number of complaints have been lodged concerning the unholstering and improper use of firearms by police. As a result of this developing concern, the Office recommended that the Board of Commissioners of Police seek to add to the Metropolitan Toronto Police Force Operational Procedures the requirement that every police officer who draws or displays a firearm in the performance of Force duties must report the details of the occurrence to the Chief of Police, District Staff Supervisor and Unit Commander.

At present, the unholstering of a revolver by a police officer is neither regulated nor

documented. It is the position of the Public Complaints Commissioner that some form of onus should be on an officer to report any instance in which he or she deems it necessary to draw a firearm during the course of duty. Officers are obliged to file such reports when they have had occasion to use force. The drawing of firearms is an equally serious matter that should be documented.

The recommendation dealing with this issue was forwarded to the Chief of Police. It is the Chief's position that the current requirement with respect to "Use of Force" reports is more than adequate for documenting all eventualities of significance and that any further reporting structure would result in an unnecessary administrative burden. The Chief of Police forwarded both the recommendation and his response to the Metropolitan Toronto Board of Commissioners of Police. The Board of Commissioners of Police concurred with the Chief's response.

The Public Complaints Commissioner is in

disagreement with the view of the Chief of Police and the Board of Commissioners of Police. The unholstering of a revolver is a necessary prerequisite to its discharge and is therefore a serious matter which must be both regulated and documented. It is in the interest of the public and the police that the police have available for analysis sufficient information to permit re-training or counselling of officers drawing their revolvers in inappropriate circumstances or to permit necessary revision of applicable training or procedures.

Failure to monitor the drawing of firearms leaves potentially unresolved one area of police and community conflict which might be alleviated through more informed regulation of the drawing of firearms.

3. **THAT THE METROPOLITAN TORONTO BOARD OF COMMISSIONERS OF POLICE CONTACT THE SOLICITOR GENERAL FOR ONTARIO, WITH A VIEW TO IMPLEMENTING A PROCEDURE AMONG ALL OF ONTARIO'S POLICE FORCES WHEREBY A MOTORIST WHO RECEIVES A 48-HOUR REPORT FROM A POLICE OFFICER FOR A VIOLATION OF THE HIGHWAY TRAFFIC ACT, MAY REPORT THE CORRECTION TO ANY PROVINCIAL OR MUNICIPAL POLICE FORCE IN ONTARIO.**

A further recommendation concerning reporting requirements arose out of a situation in which a complainant was stopped by police in Toronto for not having a licence plate on the front of the car and was given 48 hours by the police to report the replacement of the plate to a Metropolitan Toronto police station. The complainant, however, did not reside in Toronto and when he advised the officer that he therefore could not comply with such a requirement, he was charged with a Highway Traffic Act offence.

Investigators at the Office of the Public Complaints Commissioner discovered that police forces in Ontario have no reciprocal arrangement whereby motorists can report the rectification of violations to a police force other than the one responsible for the jurisdiction in which the offence was cited. As this state of affairs seemed inherently unjust, the Commissioner recommended to the Board of Commissioners of Police and to the Force that the Solicitor General be requested to establish a province-wide procedure

permitting a motorist who receives instructions to report back to police within 48 hours due to a violation of the Highway Traffic Act to report the correction to the police force of his or her choosing.

Both the Chief of Police and the Board of Commissioners of Police have since concurred with the recommendation and have forwarded their views to the Solicitor General for consideration.

4. **THAT THE BOARD OF COMMISSIONERS OF POLICE REQUEST THE CHIEF OF POLICE TO ISSUE A STANDING ORDER ADVISING ALL MEMBERS OF THE FORCE THAT THEY SHOULD PROCESS CONTRAVENTIONS OR BREACHES OF RESTRAINING ORDERS ISSUED UNDER THE FAMILY LAW ACT AS FAMILY COURT OFFENCES AND NOT AS OFFENCES PURSUANT TO THE CRIMINAL CODE.**

THAT THIS RECOMMENDATION BE REFLCTED AS AN ADDITION TO "THE METROPOLITAN TORONTO POLICE FIELD TRAINING PRECIS, FAMILY LAW ORDERS."

A recommendation arose from a complaint by a citizen who was charged by police pursuant to the Criminal Code for violating a restraining order which had been previously issued against him. His complaint centered around the belief that he should have been charged with a summary conviction offence under the Family Law Act

rather than an indictable offence pursuant to the Criminal Code.

A Supreme Court of Ontario ruling of November, 1988 deemed the Criminal Code to be inappropriate in cases such as the complainant's when there is a penalty provided under the Family Law Act.

In light of that decision, the Commissioner recommended that the Chief of Police issue a Standing Order advising all members of the force that contraventions of restraining orders issued under the Family Law Act should be processed as Family Court offences and not as offences under the Criminal Code.

The Chief of Police has re-issued a Standing Order clarifying this area of the law and has thereby complied with the Commissioner's recommendation.

5. During 1989, staff of the Office of the Public Complaints Commissioner were involved in drafting a series of detailed recommendations

governing police conduct in the handling of mass arrests at large demonstrations. This work was begun as a result of several complaints which were filed following arrests at demonstrations connected with the Economic Summit in the summer of 1988. These complaints centered around alleged excessive use of force and denial of prompt right to counsel. Staff members are in the process of formulating recommended comprehensive procedures to enable police to better prepare for and handle the volume of arrests in such situations. Work in this area is still ongoing.

PART V - BOARDS OF INQUIRY AND APPEALS

A. INTRODUCTION

Either the Public Complaints Commissioner or the Chief of Police can decide to send a complaint to a Board of Inquiry under the Metropolitan Toronto Police Force Complaints Act, 1984. In addition, any police officer who wishes to appeal from an adverse decision of an internal police disciplinary tribunal arising form a public complaint can appeal to a Board of Inquiry under the complaints legislation.

The individuals who form Boards of Inquiry which hear and decide upon complaints are selected from a panel appointed by the Lieutenant Governor in Council. One-third of the members of this panel are recommended for appointment jointly by the Attorney General and the Solicitor General; one-third of the members are recommended for appointment by the Metropolitan Toronto Council; and the remaining one-third are recommended jointly by the Metropolitan Toronto Board of Commissioners of Police and

the Metropolitan Toronto Police Association. The Attorney General/Solicitor General appointees must be members of the Law Society of Upper Canada. These lawyers chair each Board hearing.

A Board of Inquiry in respect of an allegation of serious misconduct is heard by three people, one from each group of appointees. A Board of Inquiry involving an allegation of minor misconduct is heard by one person, an appointee of the Solicitor General and Attorney General. The standard of proof in these proceedings requires that an allegation be proved beyond a reasonable doubt for there to be a finding of misconduct. Hearings are held in public and are procedurally similar to other administrative or quasi-judicial proceedings. The Statutory Powers Procedure Act and the rules of natural justice apply. There are additional provisions in the complaints legislation protecting the rights of police officers.

Between January 1, 1989 and December 31, 1989 a total of three complaints were referred to a Board of Inquiry. Within the reporting period, two complaints were given hearing dates in 1990. The third was heard partially in 1989 and continued on into 1990. One appeal from a Police Act disciplinary hearing was referred to a board and will be heard in 1990.

Two Board of Inquiry decisions were delivered during 1989 as a result of Boards called in 1988. The Divisional Court heard one appeal from a Board decision.

B. BOARD OF INQUIRY DECISIONS

1. Re: Brackett and P.C. Harris
   August 1, 1989
   Chair: Mary Jane Hatton
   Hearing ordered by
   Public Complaints Commissioner

The complainant (Daniel Brackett) made two allegations against P.C. David Harris alleging firstly, that Harris used unnecessary violence on Mr. Brackett while effecting his arrest, contrary to section 1(g)(ii) of the Police Act Code of Offences. The substance of the second allegation was that the officer used profane language towards the complainant, contrary to section 1(g)(iii) of the Code of Offences. P.C. Harris pleaded guilty to the charge of using profane language. The charge of unnecessary violence was accepted as withdrawn by the Chair.

Pursuant to a joint submission by counsel for the Attorney General and counsel for the officer, a reprimand

was deemed appropriate. The Board, in its decision, took into account the fact that Mr. Brackett indicated that he was satisfied with the penalty and that he was satisfied the proceedings would have some deterrent effect on the subject officer and police officers within the Force in general.

2. Re: Gray and Sergeant W. Wilson
September 14, 1989
Chair: E.A. Cronk
Hearing ordered by
the Public Complaints Commissioner

The basis for the allegation of misconduct was the complaint of Lyndon Gray. Mr. Gray alleged that Sergeant Wilson had said to a male person "get in the car, this is Canada, you're not in niggerland no more" and thereby acted in a manner likely to bring discredit upon the reputation of the Metropolitan Toronto Police Force, contrary to section 1(a)(i) of the Code of Offences. Alternatively, it was alleged that Sergeant Wilson had failed to report forthwith to an officer in charge a racial slur uttered by a member of the Force contrary to section 1(c)(vi) of the Code of Offences.

At the outset of the hearing, Sergeant Wilson admitted the first allegation.

In its decision, the Board made note of submissions made by the counsel for the Attorney General. Counsel argued that the admitted conduct by the officer was a very serious matter in that it amounted to a racial incident which would reflect adversely on the entire Force. Counsel referred specifically to a Standing Order of the Metropolitan Toronto Police Force effective December 18, 1985 in which it was made clear that all officers are to avoid any expression or display of prejudice, bigotry, discrimination or racial or sexual harassment.

The Board regarded the misconduct on the part of Sergeant Wilson as being completely unacceptable and wholly inappropriate for any member of the Force. Taking into account both the serious nature of the misconduct and the fact that the officer had, until that time, an exemplary record, an appropriate penalty for the misconduct was deemed to be forfeiture of five days off, to be worked by Sergeant Wilson without pay, in addition to a reprimand.

C. DIVISIONAL COURT APPEALS

1. Re: McMorrow and P.C. J. Mills and P.C. D. Stoneman
March 8, 1989
Court: Callaghan, A.C.J.H.C. (as he then was)
Gray, J.
Ewaschuk, J.

At a Board of Inquiry, the two subject officers were found guilty of using unnecessary violence.

On March 8, 1989, the Divisional Court dismissed an appeal from the Board's decision brought by P.C. Mills and P.C. Stoneman. The Court indicated that the finding of the Board that the complainant (McMorrow) was kicked by one of the officers was, on a totality of the evidence, one which the Board could have reasonably made, and that the evidence was adequate to support the Board's ruling. A copy of the written decision is found in Appendix A.

PART VI - THE RACE RELATIONS AND POLICING TASK FORCE

In December of 1988, Solicitor General Joan Smith announced the establishment of a Task Force "to address promptly the very serious concerns of visible minorities respecting the interaction of the police community with their own." The Public Complaints Commissioner was named as Chair. Other members included Dr. Ralph Agard, Kamala-Jean Gopie, Halton Regional Police Chief James Harding, T. Sher Singh and Roy Williams.

The mandate of the Task Force was to inquire into and report on various aspects of police interaction with the visible minority community. The Report was to examine training, community liaison, and the feasibility of establishing a province-wide monitoring system to review regularly the interaction between these two groups.

The Task Force, which established headquarters in the offices of the Public Complaints Commissioner, received many written submissions from the public as well as oral submissions at its public hearings in Toronto, Ottawa, Windsor and Thunder Bay.

The Task Force Report was delivered to the Solicitor General and released to the public on April 11, 1989.

In November, 1989, Solicitor General Steven Offer announced that his Ministry had studied the report, accepted the fundamental principles underlying the findings of the Task Force, and developed a comprehensive plan of implementation.

The great majority of the fifty-seven recommendations were endorsed by the government in all areas covered by the Task Force terms of reference. These areas include the use of force by police, comprehensive measures in employment equity, police-community relations, recruitment and training, and the establishment of a special investigative unit for cases involving death or serious injury to members of the public at the hands of the police.

Substantial funds have been allocated for implementation of these recommendations. A unit responsible for the implementation and monitoring of its success has been established within the Ministry of the Solicitor General. Details of the implementation are currently being planned.

The Task Force represented the major commitment of the Commissioner for the first four months of the year. Its work and recommendations, together with the government response, will have significant impact on the future of policing in Ontario. The Commissioner was only able to perform his Task Force role with the active support and encouragement of the staff of the Office of the Public Complaints Commissioner. For these reasons, the Executive Summary of the Task Force Report is included in this Annual Report.

REPORT OF THE ONTARIO TASK FORCE ON RACE RELATIONS AND POLICING

EXECUTIVE SUMMARY

Introduction

Throughout the 1970's and early 1980's growing dissonance between some Ontario police forces and visible minority communities led to studies and reports initiated by provincial and municipal governments. Those reports were intended to provide guidance in the achievement of equable relations between police and those communities.

Reports were written by the late Arthur Maloney, Q.C., in 1975; the Honourable Mr. Justice Donald Morand in 1976; Walter Pitman in 1977; G. Emmett Cardinal Carter, Archbishop of Toronto, in 1979; Dr. Reva Gerstein in 1980; and the late Honourable Judge John Greenwood in 1980. The issues raised in their reports bear remarkable similarity to those confronting this Task Force.

Those reports recognized that the defining factor of a visible minority is colour, sometimes together with a dress standard dictated by creed. They made important recommendations intended to result in fair, non-discriminatory treatment of visible minorities by police. They questioned the adequacy of race relations training for police officers and the hiring and promotional practices of police forces. They sought means to improve police interaction with visible minority communities. They urged limits on police use of force and demanded effective accounting for that use. They were, however, unable to require or encourage government and the police to establish effective monitoring mechanisms to ensure both the implementation of accepted recommendations and the regular review of the relations between the police and the concerned communities.

Throughout the 1980's, the lack of effective monitoring denied the police and government the ability to recognize the depth of visible minority disaffection with current policing. There was no objective assessment of the limited successes and actual inadequacies of police initiatives designed to redress perceived problems. While there have been significant attempts at reform undertaken by some police forces in the past decade, an essential present criticism is that those reforms have neither

achieved desired results nor inspired public confidence.

The critical nature of that shortcoming was expressed in a presentation before the Task Force on behalf of the Canadian Human Rights Commission:

> "The worst enemy of effective policing is the absence of public confidence."

That there was a crisis in public confidence became apparent following the deaths in 1988 of Lester Donaldson and Michael Wade Lawson, both black and both shot in separate incidents by on-duty police officers from different Ontario forces. Those deaths, the circumstances of which will be determined by the criminal court process, provided the catalyst for the creation of this Task Force. The deaths led to what one person accurately described to us as "an atmosphere of mutual mistrust and pessimism."

The Honourable Joan Smith, Solicitor General of Ontario, responded to the crisis by announcing in the Legislature on December 13, 1988, the establishment of this Task Force:

> "to address promptly the very serious concerns of visible minorities respecting the interaction of the police community with their own."

The terms of reference are to inquire into, and report on:

1. The training members of police forces currently receive as it relates to visible minorities.

2. Ways to improve this training and education, both for recruits and serving officers.

3. Police hiring practices and promotional processes, including the establishment of employment equity programs.

4. Ways to improve the interaction of the police with the visible minority communities through the establishment of liaison officers, committees, community education programs and race relations training.

5. Ways in which a monitoring system may be established to provide for a regular review of

the interaction between visible minorities and the police.

6. The policies and practices of the police relating to the use of force.

The Task Force held public hearings in Toronto, Ottawa, Windsor and Thunder Bay. One hundred and eighteen oral presentations were made by individual citizens, community groups, and police forces and commissions. Thirteen volumes of transcript preserve an impressive and important body of insight into the field of race relations and policing. Further, one hundred and twenty-seven written briefs were presented.

The Task Force sought detailed information from Ontario's 121 police forces through a lengthy questionnaire on issues of relevance. There was an outstanding response of 99 completed and returned. Private information gathering sessions were held with representatives from police educational institutions, with some individual visible minority police officers and with private consultants. A computer-assisted literature search permitted review of over two hundred items related to our terms of reference.

It is clear that our whole society is engaged in an evolving process of learning the implications of our changing demographics. All of us, majority and minority, are participants in the challenge of change. Coping with diversity is a learned skill for all people, regardless of background. The police are not excepted from this challenge. The process requires commitment, re-evaluation, vigilance, long memory, and the ability to learn and recover from setbacks.

The police should be encouraged that almost all who presented to the Task Force were thoughtful. They were all but unanimous in their expressed belief in the value of policing appropriate to a democratic society, and in their approval of the quality of most services provided by their local police forces. However, they also convinced us the visible minority communities do not believe that they are policed in the same manner as the mainstream, white community. They do not believe that they are policed fairly, and they made a strong case for their view which cannot be ignored.

There is no tenable argument for accepting racism in policing. If racism exists, it must be confronted and

changed or removed. The Task Force, however, is concerned that it be understood that it is the critically important police function which places police at the forefront of the need for institutional change. The vital police function is often fulfilled in circumstances which are difficult and charged with emotion. The issue is not that police are worse than the rest of us, but that what is worst in all of us is capable of being revealed with serious consequence when tested in a policing circumstance.

The challenge is to sustain and improve effective policing while eliminating the alienation of visible minority communities. Colour, race, place of origin and creed must neither be, nor perceived to be, triggers for discrimination on the part of the police, one of our most important public institutions. Public support of high quality policing is a given in Ontario. Police must provide, and be perceived to provide, their service to all with the fairness necessary to ensure the public confidence required for effective policing.

We believe that government and the police bear the responsibility for change which meets public demand for effective civilian control of the police in our democratic and pluralistic society. There must be mechanisms through which the public can require police standards, policies and practices to meet publicly set objectives. The police must be made accountable to the public to a degree much greater than is now the case.

Most police officials appearing before us restated their commitment to fairness and equity and revealed genuine grief that their pledge may not be accepted. Police must understand that their reputation will not founder, nor will they be brought into disrepute if they accept public criticism as helpful. Public approval and confidence will be the result of visible and credible efforts by police to assess the nature and degree of racism in police forces, to eliminate organizational factors which perpetuate prejudice and to punish discriminatory behaviour.

Conversely, failure to achieve congruence with the values and expectations of the broad community will increase police alienation and loss of morale. High police morale is based on service delivery consistent with public expectation. Through values and goals shared with the public, the police receive evident job satisfaction and societal approval. The onus is on the police, as a public institution, to adapt to public demand and reflect both the public and the public values they serve.

A principal challenge to police managers will be to recognize and attack systemic causes of discrimination within police forces. Failure to do so has created a fundamental barrier to the ability of command officers to respond to race relations issues effectively. Command officers must also recognize that their attitudes to race relations issues are clearly understood within lower ranks to whom they are role models. Command officers must present themselves in a manner consistent with the ready implementation of government race relations objectives and be held accountable.

The Solicitor General told the Legislature that she views the Task Force as:

> "The beginning of an action plan to remove any vestige of discrimination, or perception thereof, on the part of our police. ... Neither the reality, if such there be, nor the perception, can be tolerated for one minute longer."

We believe the need is critical. Our recommendations will require significant dedication and resources if they are to be meaningfully implemented. However, government has a present opportunity to restore a sense of justice and tranquility to this province.

The Task Force recognizes that its process, and the public outcry preceding its creation, have been painful for the Ontario Police Service. Allegations of racism, individual or systemic, are cruelly trying of police self-perception. As earlier suggested, the police must be a model to us all. The Task Force believes that, with government and public assistance, the police are now ready to accept this challenge as an inevitable demand on their tradition of public service.

This report is presented in acknowledgment of the high quality of the Ontario Police Service and in a desire to prevent the deterioration of that service through loss of public confidence. That goal cannot be met if the police and significant parts of the community share little more that mutual distrust.

Recommendations

The six headings in the terms of reference are

treated as five and re-ordered. The Task Force considers the monitoring issue as critical, and has placed "Monitoring" first. Items 1 and 2 are treated as one issue under the heading "Race Relations Training."

We have also added, as related issues, sections dealing with public complaints, First Nations Peoples, police commissions and police associations, under the heading "Related Issues."

The Task Force makes fifty-seven detailed recommendations which are simply highlighted in this Executive Summary.

1. Monitoring

The Task Force was consistently confronted with a deep sense of community cynicism, expressed as doubt that our process will have meaningful effect on government or the police. There has been some public loss of faith in the system's ability to deal with problems of race relations and policing, based on the belief that previous related reports and recommendations have been largely ignored.

There is some justification for this perception. Failure to provide effective monitoring of government and police response to previous recommendations, and to enable meaningful assessment of successes or otherwise of initiatives undertaken, has resulted in a cyclical pattern of crisis response. Controlled, reviewed and evaluated progress towards identified and generally accepted race relations and policing goals has been markedly absent.

The Task Force reports unequivocally that relations between police and visible minorities are at a dangerously low level. A good police and visible minority relationship is a complex process requiring constant attention, and a comprehensive plan of tangible, measurable and observable deeds. Monitoring is the key to the success of any such comprehensive plan.

We assert that a monitoring system specific to the institution of policing in relation to visible minorities is required. An imperative is the establishment of a monitoring process which will attract and maintain public confidence. To do so requires some independence from government and the police and some authority to ensure achievement of established goals.

The Task Force recommends the creation, by September,

1989, with its own statute, of an agency with appropriate staff and a Board of Commissioners, to be known as the Ontario Race Relations and Policing Review Board. We contemplate a board of three to five commissioners, all of whom are civilians, but including one or two persons with a policing background. Other related expertise in fields such as race relations, education, community development, law and employment equity should be reflected as might a majority of minority members of the board.

Members, including the chair, should be appointed by the Lieutenant Governor in Council on the recommendation of the Solicitor General.

The Ontario Race Relations and Policing Review Board is seen as having a significant role in employment equity in policing. It is proposed that this agency be empowered to approve or establish required visible minority employment equity goals and timetables for all police forces in Ontario. Further, the agency should be required, when appropriate, to recommend that the Solicitor General impose financial sanctions on police forces failing to meet those goals, and be permitted, again when appropriate, to refer such failure to the Ontario Human Rights Commission as evidence of systemic discrimination.

The agency is further intended to assist government and the police in achieving success in the implementation of accepted recommendations of this Task Force or other related government initiatives. It is contemplated that the agency have a research facility which can evaluate the degree and impact of racism in policing. Through consultation the agency should identify emerging issues, and assist in implementation of policies set by the Solicitor General and other involved parties.

The agency is intended to promote a climate of healthy interaction between visible minorities and police, and to monitor their interaction in the areas of employment, training and community relations.

The Ontario Race Relations and Policing Review Board should report quarterly to the Cabinet Committee on Race Relations, and annually to the Legislature of Ontario, through the Solicitor General, but separately from that Minister's annual report.

While the Task Force view is that an effective monitoring system must be impartial, and operate at some distance from both police and their ministerial administration, it is also our position that its primary

focus should be co-operative in encouraging achievement of understood objectives.

2. Hiring and Promotion

The Task Force recommends mandatory employment equity programs for all Ontario police forces. The face of Canadian society is changing rapidly, and current immigration patterns ensure that the representation of visible minorities in our population will increase dramatically. All Canadian institutions are challenged to reflect our new society. The need is particularly great in large urban centres. The unique police role requires special attention and sensitivity to the changing environment. If Ontario police forces are to enjoy public confidence, they must reflect and understand the communities they serve, and be so perceived.

The current composition of Ontario police forces bears little relation to the broad Ontario community. Forces are largely white and male. While some important strides in minority recruiting have occurred in recent years, they will fall far short of achieving representative forces in reasonable time frames. Few senior officers in Ontario are visible minorities.

It has been stated that visible minorities do not apply or even want to be police officers. Further, it has been suggested that employment equity programs designed to redress inequities will lower standards. The Task Force review of application statistics and promotional patterns do not support these arguments. It is apparent that success rates in recruitment and promotion are indefensibly skewed heavily in favour of white males. It is equally apparent that policing, for good reason, is not viewed as a welcoming institution by many visible minorities who might otherwise consider such a career. Rational employment equity will not lower standards. It will target merit in under-represented visible minority communities and ensure success in achieving appropriate required standards. The "lower standards" argument is an elitist, patronizing defense of the status quo and vested interest. It is rejected. Standards will be raised by enlarging the pool of candidates and reflecting the public.

The Task Force is unequivocal in its view that present hiring and promotional patterns of visible minorities and women reveal significant systemic barriers. Current composition of many Ontario police forces does not reflect Sir Robert Peel's dictum that "the police are the

public and the public are the police." Voluntary employment equity programs are not co-ordinated provincially, and are not succeeding adequately.

It is recommended that the regulations to the Police Act require each Ontario police force and its governing authority to establish and submit for approval of the Ontario Race Relations and Policing Review Board a visible minority employment equity policy and a five-year plan of hiring and promotional goals and timetables which shall be reported upon annually, and updated to maintain on-going five-year plans. The goal of all Ontario police forces being representative of the racial diversity of their served communities should be achieved by 1996.

To assist in recruiting to meet established goals and timetables, the Task Force recommends the creation of a Central Police Recruiting Unit to serve as part of the Policing Services Division of the Ministry of the Solicitor General. The Unit will not replace individual force recruitment and will not hire, but through expertise in recruiting, particularly of visible minorities, it will create and provide a pool of qualified candidates from which interested forces may draw. It will develop bias-free recruitment, testing and selection instruments and processes, and conduct research in police recruitment issues.

The Task Force recommends greater use of civilians in policing through mandatory review of all police staffing to determine which positions may be converted to civilian status. Police will be able to release officers to duties more appropriate to their training and status and obtain, with attention to minority applicants, people with special skills of value to the organization.

The police have traditionally insisted on promotion through the ranks, usually of the same police force. The Task Force finds such adherence to tradition without merit and foreign to all other institutions including the military. It is recommended that mechanisms be developed by which lateral entry by members of other forces or direct entry by qualified civilians will be accomplished, thereby allowing entry at ranks above constable. It is further recommended that an officer training program be designed and required for all senior officer candidates.

The Task Force is concerned that some minorities, such as Sikhs, are denied entry to most police forces by reason of dress code. All public institutions are required

by law to make reasonable accommodation in employment. It is recommended that Police Act regulations require all police forces to allow Sikhs to wear their religious symbols including the turban and the kirpan while on duty. Further, no person should be denied police employment by reason of religious dress or other requirement which can be reasonably accommodated.

3. Race Relations Training

The Task Force believes effective race relations training for police is required urgently. It is important that such training not merely stand alone, but that it be integrated throughout all police training. Such training will be enhanced if increased general education levels of police are required and further encouraged, and if regular police training is standardized and upgraded.

We recommend that all recruits have achieved a minimum grade 12 education or its equivalent and that there be generous allowance for upgrading to permit university admission and graduation. We recommend that the Solicitor General assume responsibility for setting and maintaining the standards for all police training in Ontario. A comprehensive review, assessment and where required, revision of such training is recommended. Further, all applicants to police forces should be required to complete successfully such a revised training program at the Ontario Police College before employment as a police officer.

The Task Force recognizes that the existing "Coach Officer" program is important in training probationary constables, but recommends that consistent, high standards be set for the training and re-training of coach officers, and that monitoring of the coach officers and of the program generally be instituted and on-going.

Further, the Task Force recommends that all officers be required to attend the Ontario Police College for a four-week refresher training course at five years of service and every five years thereafter. The College must be required to ensure that such refresher training includes a significant, professionally evaluated race relations component and to integrate race relations issues throughout the curriculum.

The Task Force believes all current police race relations training in Ontario to be inadequate in content, delivery, and, to some degree, in commitment. We believe that police should remain involved in the creation and delivery of race relations training, but that they are not

equipped to do so without considerable civilian, professional assistance.

The concern of the Task Force as to the quality and deleterious effect of existing programs is so great that we recommend an immediate moratorium on all Ontario police race relations training pending an immediate review and then replacement of all existing programs. We recommend the use of civilian consultants to assist in this process. New programs, including integration of race relations issues throughout police training, should be designed by June 1990, in force by December 1990, and be reviewed annually for the first three years and every five years thereafter by the Ontario Race Relations and Policing Review Board. The training must be provided to command officers and to members of police governing authorities as well as to junior officers.

Further, it is recommended that, with the assistance of civilian consultants, a train-the-trainers program be developed by January, 1990 for all Ontario police race relations training officers.

We recommend requiring candidates for hiring or promotion to serve an internship of two to three months with a visible minority community organization.

4. Use of Force

The public have vested in police considerable authority to use force, including deadly force. That trust must be balanced by accountability. Any killing by police in what appears to be other than extreme circumstances is of concern. The impact of such deaths or, in some circumstances, use of lesser force on the relationship between police and visible minority groups is obvious when a minority individual is involved. It is important to all citizens that police use force only when appropriate, in accordance with clear and justifiable guidelines, and with sufficient training and skill to minimize its necessity.

Of particular concern is existing statutory permissiveness of the use of deadly force. The Task Force recommends that Regulation 790 of the Ontario Police Act be partially revoked and partially amended to limit officers to shooting only in defence of life or to call for assistance in a critical situation.

Further, we share widespread concern that the Criminal Code of Canada permits police discretion in the

use of firearms to an unacceptable degree. Section 25(4) of the Code permits an officer lawfully proceeding to arrest to shoot a suspect who attempts to escape unless that can be prevented by less violent means. That "fleeing felon" rule renders the most minor offender subject to loss of life at the hands of the police. We recommend that the Government of Ontario petition the Government of Canada to amend S.25(4) of the Code to restrict its applicability to circumstances in which the fleeing offender poses immediate threat of death to police or others.

Training in the use of force and of firearms is an ongoing need. We recommend increased tactical training which will encourage recognition of ways to avoid the use of deadly force. We recommend training use of computerized "shoot-don't shoot" scenarios, and annual firearms re-training and re-qualification. We also recommend that officers be required by regulation to file use of force reports for analysis by the Policing Services Division.

A matter of considerable community concern involves the issue of police investigating police after a police shooting. Current Ontario practice of having a different police force investigate the one involved has not satisfied demands for civilian investigation. The Task Force recommends a blended approach in which the Solicitor General shall create an investigative team comprised of homicide investigators chosen from forces other than that involved in the shooting together with at least two civilian members drawn from government investigative agencies independent of the Ministry of the Solicitor General. Further, delay in investigations and lack of information are debilitating of police relations with the community. We recommend that such a team release appropriate information as to the progress of the investigation and that, if warranted, criminal charges be laid within thirty days unless longer investigation is expressly justified.

5. Community Relations

The Task Force heard many examples of alleged racial discrimination by police and of alleged police harassment of visible minority or native Canadian citizens. To the extent that such exist they cannot be tolerated. Definitions of acts of police racial discrimination and harassment must be formulated, and, once defined, subject to sanctions. We recommend that the definition and sanction for racially prejudiced behaviour, whether directed at persons within or outside the police force, be

included in the Regulations under the Police Act.

It is clear that community expectations can best be understood and met if there is a greater return to community policing approaches as opposed to the apparent development of isolated and reactive policing. Community policing is pro-active, preventive in concept, and rooted in the public desire and willingness to work with police to improve the quality of neighbourhood life. It promotes frequent voluntary contact between the public and the police. It provides police with knowledge, skills, and motivation appropriate to service provision beyond law enforcement.

The Task Force believes that community-based policing is critical to improve relations between the police and visible minority communities. There is a need for the development of a new breed of police officer, aware that law enforcement represents only a portion of proper police function and that provision of other services is an important and commendable part of police duty.

The Task Force recommends that the Solicitor General select community policing models appropriate for Ontario police forces and encourage commitment by forces and their governing authorities to community policing.

We recommend the establishment of race and ethnic relations units when the visible minority population so warrants. Each force at a minimum should assign such responsibility to a senior officer. Service in such units should be reserved for those interested and with aptitude, and should be viewed positively in the promotional process. We recommend that race and ethnic relations units have a central role in policing and report directly to the Chief or Deputy Chief of Police.

We recommend that community consultation committees representative of the local racial mix be established, and funded if necessary, to meet regularly with senior officers of forces. We recommend that chiefs of police of forces with more than 100 members, whose communities are racially diverse, establish and meet regularly with visible minority advisory committees to discuss issues or concerns which affect the force and visible minorities.

The Task Force is concerned that critical events result in police and community trauma. Turmoil following the deaths of Lester Donaldson and Michael Wade Lawson illustrates the failure of institutions to respond

effectively to community questions and concerns. The result was an expression of community outrage and institutional defensiveness which severely damaged the race relations climate. We recommend that the Solicitor General, in broad consultation, develop a crisis response mechanism for adoption and use by government, police and community organizations.

The media can be a potent force for good or ill in the dynamic of police relations with visible minorities. Publication of unnecessary information about crimes and charges can create or fuel negative attitudes about an entire group. Stereotyping is a constant danger. The Task Force recommends that each force develop a policy regarding the release of information relating to race and crime. The race or colour of an accused should never be publicized. The racial characteristics of wanted suspects should only be referred to when they are an investigative requirement.

6. Related Issues

a) Public Complaints

Although our Terms of Reference do not include mechanisms to deal with public complaints against the police, many of those presenting have urged us to consider the issue. We have forwarded to government the 22 written briefs and the transcripts of the 52 oral presentations in which demand was made for mandatory, province-wide independent civilian review of allegations of police misconduct against members of the public.

The Task Force did note that its public hearings suggest a considerable need for a consistent approach to the issue. It is patently obvious that a publicly credible, accountable and independent civilian mechanism for public complaints is basic to responding to allegations of racial intolerance or other misconduct by all police. General public confidence in all police would be enhanced.

b) First Nations Peoples

Native people emphasized before us that they are not visible minorities, but described treatment of them by police in much the same terms as did most visible minority presenters. Native presentations were unwavering in the message that native people do not believe that they are fairly policed. Those presentations were devastating in their statements of despair and of powerlessness in the face of the whole of the justice system. They argue, with

conviction, that they are viewed stereotypically by the police with terribly negative results.

While we lack the mandate, expertise, time for study and native representation essential to assess and make meaningful recommendations on this complex matter of native justice, it is clear that, at a minimum, all native peoples require the advantage of all other recommendations made in this report.

We recommend that the Government of Ontario initiate, in concert with the Government of Canada and representatives of native people, the establishment of a tri-partite task force to study the feasibility, structure and processes of native justice systems in Ontario, and to recommend working models as pilot projects.

c) Police Commissions

The accountability of police was a constant theme during the Task Force hearings. For many, the role, authority and responsibilities of police commissions is unclear.

Police commissions owe allegiance to the community they represent. They are not appointed to be principal civilian apologists for the police. They are to infuse civilian direction, consistent with the ideals of policing in a democratic society, into a service which has para-military organizational emphasis. A core responsibility of police commissions is the achievement of harmonious relations between the police and all segments of the community.

Until police commissions achieve independence and control, their ability to direct their forces and ensure race relations tranquility will be fettered or negated.

We recommend that the role, authority and responsibilities of police commissions be clearly defined in the Police Act. We recommend that the Solicitor General retain a residual authority to name the chair of each commission, and to remove commissioners and, if necessary, police command officers, who abdicate their statutory responsibility. We also recommend enhanced independence of police commissions through requiring them to be housed and staffed separately from the police.

d) **Police Associations**

We recognize the integral role which police associations play in setting the climate of visible minority and police relations. They owe a great deal of considered leadership to their members. They will serve their members well if they assist them to achieve positive change in their changing environment.

Police morale bears direct relation to the degree to which police resemble their community and reflect and respond to its needs and demands. Police associations bear an important responsibility in accomplishing that quality and fairness in policing which will attract the widespread community support necessary to high police morale.

Conclusion

The Deputy Solicitor General, Stien Lal, in his presentation to the Task Force, said that the Solicitor General has placed the highest priority on multicultural policing. He stressed that the Minister has stated:

> "the government's commitment to proceed with the blueprint for action which will result from these deliberations."

In 1977, Walter Pitman wrote Now Is Not Too Late. This Task Force cannot state too strongly that, in 1989, now is the time. The need is critical.

In his presentation to us, Miah Bailey, Vice-President of the Jamaican Canadian Association, said:

> "We at the Jamaican Canadian Association have always maintained that co-operation and communication between different sections and interests in our society were absolutely necessary for positive change .... However, we also wanted to make it clear that our patience is not inexhaustible."

Ted Montour, appearing on behalf of the Assembly of First Nations of Canada, said:

> "What we face here is not unlike the situation with respect to acid rain ... the time for study is past and it is time to act."

Government might be encouraged to act by the comments to the Task Force by Maxwell Yalden, Chief Commissioner of the Canadian Human Rights Commission, who said when asked whether government initiatives can redress inequity and improve race relations and policing:

> "Will it work? Oh yes, it will work. The question is how long it will take to work. You see, it will work because we're on the side of history and whoever is on the side of history always wins."

The Task Force believes that it is time to ensure that victory.

SUPREME COURT OF ONTARIO

This is to Certify that the annexed document, each page of which is stamped with the seal of the said Court as identifying the same, is a true copy of the endorsement of the Associate the Chief Justice of the High Court, the Honourable Mr. Justice Gray, and the Honourable Mr. Justice Ewaschuk, given on the appeal dated the 8th day of March, 1989.

B E T W E E N :

POLICE CONSTABLE JOHN MILLS and
POLICE CONSTABLE DWIGHT STONEMAN

Appellants

-and-

THE ATTORNEY GENERAL OF ONTARIO and
MICHAEL McMORROW

Respondents

Given under my hand and seal of the said Court, at Toronto
this 10th day of March, 1989
being an officer duly authorized to give this certificate.

ASSISTANT CLERK

820/87

Court File No. ~~819~~/87

A-3 ACJHC

SUPREME COURT OF ONTARIO

(DIVISIONAL COURT)

IN THE MATTER OF the Metropolitan Toronto Police Force Complaints Act, S.O. 1984, c.63;

AND IN THE MATTER OF Police Constable John Mills and Police Constable Dwight Stoneman, Members of the Metropolitan Toronto Police Force:

AND IN THE MATTER OF Michael McMorrow, Complainant;

AND IN THE MATTER OF a Decision of the Board of Inquiry dated May 12, 1987, and August 24, 1987.

B E T W E E N :

POLICE CONSTABLE JOHN MILLS AND
POLICE CONSTABLE DWIGHT STONEMAN

Appellants

- and -

THE ATTORNEY GENERAL OF ONTARIO AND
MICHAEL McMORROW

Respondents

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THE SUPREME COURT OF ONTARIO
FILED
OCT 6 1987
Divisional Ct
SUPREME COURT OF ONTARIO

DIVISIONAL COURT

BEFORE The a.c.j.H.C. Callaghan
Gray J.J. Ewaschuk

DATE Mar. 8 / 89

DISPOSITION - THIS APPEAL/

~~APPLICATION IS~~ dismissed

The finding of the Board that the complainant (McKinnon) was kicked by one of the appellants is, on a totality of the evidence, one which the Board could reasonably have reached. It was submitted that the Board did not resolve the conflicts in the evidence as to the fault of the blow which caused the injury to the eye of the complainant and in so doing erred. The Board based its decision on all the testimony + exhibits filed. (Rec. p 26 - p 31) In our view the totality of that evidence is adequate to support the Board's ruling. We are satisfied that the Board weighed the evidence of the complainant rejecting some of it. The weight the Board attributed to that evidence, or parts of it, does not raise a question that "is not a question of fact alone" within s 24(3) of the Police Services Act S.O. 1984 c 63 and accordingly this Court has no jurisdiction to interfere with the ruling of the Board in this matter.

No order as to Costs

J.W. Callaghan A.C.J.H.C.

APPENDIX B

Government
of Ontario

Metropolitan Toronto Police Force Complaints Act, 1984

Statutes of Ontario, 1984
Chapter 63

as amended by
1986, Chapter 31

and

Ontario Regulation 494/85

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CHAPTER 63

Metropolitan Toronto Police Force Complaints Act, 1984

1. In this Act, Interpretation

(a) "Bureau" means the Public Complaints Investigation Bureau;

(b) "chief of police" means the chief of police of the Metropolitan Police Force;

(c) "Commissioner" means the Public Complaints Commissioner appointed under this Act;

(d) "complainant" means a member of the public who makes a complaint in accordance with the provisions of this Act;

(e) "complaint" means an allegation or allegations, made orally or in writing, by a member of the public, concerning the misconduct of a police officer;

(f) "inquiry" means an allegation or allegations concerning conduct of a police officer that does not amount to "misconduct";

(g) "misconduct" means an act or omission on the part of a police officer that constitutes an offence under the Code of Offences set out in the Schedule to Regulation 791 of Revised Regulations of Ontario, 1980, made under the *Police Act*; R.S.O. 1980, c. 381

(h) "officer in charge" means the police officer who at any particular time, while on duty, is in charge of and responsible for, the proper functioning of a police facility;

(i) "police officer" means a police officer on the Metropolitan Police Force;

(j) "prescribed" means prescribed by the regulations;

(k) "regulations" means the regulations made under this Act;

(l) "subject officer" means a police officer who is the subject of a complaint. 1984, c. 63, s. 1.

Application of Act

2. This Act applies to complaints and inquiries made by members of the public respecting the conduct of police officers on the Metropolitan Police Force and hearings under this Act and disciplinary proceedings under the *Police Act* and the regulations thereunder arising out of such complaints. 1984, c. 63, s. 2.

R.S.O. 1980, c. 381

Appointment of Public Complaints Commissioner

3.—(1) The Lieutenant Governor in Council shall appoint a Public Complaints Commissioner, to hold office for a term not exceeding five years, to exercise the powers and perform the duties assigned to him by this Act and the regulations.

Re-appointment

(2) The Commissioner may be reappointed for a further term or terms not exceeding, in each instance, five years.

Officers, etc.

(3) Such officers and employees as are considered necessary from time to time for the purposes of this Act may be appointed under the *Public Service Act*.

R.S.O. 1980, c. 418

Remuneration

(4) The Commissioner shall be paid such remuneration and allowance for expenses as may be fixed by the Lieutenant Governor in Council.

Records

(5) The Commissioner shall maintain copies of all records, reports and other materials received by him under this Act.

Monitoring handling of complaints and inquiries

(6) The Commissioner shall monitor the handling of complaints and inquiries by the Bureau and the chief of police.

Annual report

(7) The Commissioner shall report annually on the affairs of his office to the Solicitor General and to the Attorney General and the Attorney General shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Summary of decisions

(8) The Commissioner shall cause to be prepared and published periodically a summary of the decisions, and the reasons therefor, made by the boards of inquiry under this Act.

Audit

(9) The accounts of the Commissioner shall be audited annually by the Provincial Auditor. 1984, c. 63, s. 3.

Panel for boards of inquiry

4.—(1) The Lieutenant Governor in Council shall appoint a panel of persons to act as members of boards of inquiry.

Recommendations for appointment

(2) One-third of the members of the panel shall be persons who are members of the Law Society of Upper Canada who are jointly recommended for appointment by the Attorney General and the Solicitor General.

Idem

(3) One-third of the members of the panel shall be persons, other than police officers, the appointment of whom the Metropolitan Board of Commissioners of Police and the Metropolitan Toronto Police Association have jointly recommended in writing to the Attorney General. 1984, c. 63, s. 4 (1-3).

Failure to make joint recommendations

(3a) If the joint recommendations referred to in subsection (3) have not been submitted to the Attorney General within the time that the Attorney General has specified under subsection (6), one-third of the members of the panel shall be persons, other than police officers and members of the Law Society of Upper Canada, who are jointly recommended for appointment by the Attorney General and the Solicitor General.

Individual recommendations to be considered

(3b) Before making the recommendation referred to in subsection (3a), the Attorney General and the Solicitor General shall consider any recommendations made by the Metropolitan Board of Commissioners of Police alone or the Metropolitan Toronto Police Association alone. 1986, c. 31, s. 1, *part*.

Idem

(4) One-third of the members of the panel shall be persons recommended by the council of The Municipality of Metropolitan Toronto to the Attorney General for appointment. 1984, c. 63, s. 4 (4).

Failure to make recommendations

(4a) If the recommendations referred to in subsection (4) have not been submitted to the Attorney General within the time that the Attorney General has specified under subsection (6), one-third of the members of the panel shall be persons, other than members of the Law Society of Upper Canada, who are jointly recommended for appointment by the Attorney General and the Solicitor General. 1986, c. 31, s. 1, *part*.

Term

(5) Appointments to the panel shall be for a term of two years and a person who is appointed may be reappointed for a further term or terms not exceeding, in each instance, two years.

Idem

(6) Recommendations made under subsections (3) and (4) shall be submitted to the Attorney General within such time as he may specify.

Members of Police Complaints Board under 1981, c. 43

(7) Notwithstanding subsection 34 (1), the members of the Police Complaints Board, except the chairman, constituted under the *Metropolitan Police Force Complaints Project Act, 1981* shall act as members of boards of inquiry under this Act until such time as the panel referred to in subsection (1) is appointed and members of the Police Complaints Board appointed from the groups set out in subsections 4 (4), (5) and (6), respectively, of the *Metropolitan Police Force Complaints Project Act, 1981* shall be deemed to be recommended under subsections (2), (3) and (4) of this section, respectively.

1981, c. 43

NOTE: Subsection 34 (1) as mentioned in subsection (7) above repealed the *Metropolitan Police Force Complaints Project Act, 1981*, being chapter 43. See—1984, c. 63, s. 34 (1).

Remuneration

(8) The members of the panel shall be paid such remuneration and expenses as may be fixed by the Lieutenant Governor in Council. 1984, c. 63, s. 4 (5-8).

Establishment of Bureau

5.—(1) The chief of police shall establish and maintain for the purposes of this Act a branch of the Metropolitan Police Force to be known as the Public Complaints Investigation Bureau.

Staff

(2) The chief of police shall ensure that the Bureau is supplied with sufficient staff to effectively receive, record and investigate complaints and inquiries. 1984, c. 63, s. 5.

Where complaints may be made

6.—(1) A member of the public may make a complaint at the Bureau, at any police station in Metropolitan Toronto or at the office of the Commissioner.

Information

(2) The person who receives the complaint shall record the complaint in the prescribed form and shall furnish the complainant with a prescribed statement that sets out the procedures that will be followed respecting the complaint and the rights under this Act of the complainant, together with a copy of the complaint.

Preliminary investigation

(3) Where a complaint is recorded at a police station, the officer in charge of the station shall take all reasonable steps to ensure that all available evidence is gathered that may be lost if not secured immediately and, if appropriate, ensure that such other preliminary investigation as may be warranted is conducted and that a report concerning such preliminary

investigation is prepared and forwarded to the person in charge of the Bureau.

Copy of complaint

(4) Where a complaint is recorded at a police station, the person recording the complaint shall forward forthwith to the Bureau and to the Commissioner a copy of the complaint.

Idem

(5) Where a complaint is recorded at the Bureau, the person recording the complaint shall forward forthwith to the Commissioner a copy of the complaint.

Idem

(6) Where a complaint is recorded at the office of the Commissioner, the person recording the complaint shall forward forthwith to the Bureau a copy of the complaint. 1984, c. 63, s. 6.

Notification by Commissioner

7.—(1) Where a complaint is made by a person not directly affected by the incident, the Commissioner, as soon as practicable after receiving the complaint, shall in writing notify the person directly affected by the incident that a complaint has been made under this Act and advise him that he is entitled to be the complainant.

Where no action to be taken

(2) Where the person directly affected by the incident is not known or can not be found or does not, within thirty days of the date of the notification, file with the Commissioner a written request to be the complainant in the matter, no further action shall be taken under this Act in respect of such complaint.

Action under R.S.O. 1980, c. 381

(3) Nothing in subsection (2) shall prevent the chief of police from taking any disciplinary action that he could otherwise take under the *Police Act* and the regulations thereunder, and the chief of police shall notify the Commissioner if any such action is taken and the result thereof and either the chief of police or the Commissioner shall then notify the complainant.

Person deemed directly affected

(4) For the purposes of this section a person who observes an incident shall be deemed to be a person directly affected by the incident. 1984, c. 63, s. 7.

Reclassification by Bureau chief

8.—(1) Upon receipt of a complaint, the person in charge of the Bureau may, with the consent of the Commissioner, reclassify any of the separate allegations within the complaint as an inquiry, and the complainant and the subject officer shall be notified forthwith.

Response

(2) The person in charge of the Bureau shall determine whether any investigation is required in respect of an inquiry,

and if it is, cause such investigation to be conducted, respond to the complainant in writing within sixty days of receipt of the complaint and forward a copy of the response to the Commissioner forthwith.

Reclassification during investigation

(3) The person in charge of the Bureau may, during the course of an investigation under subsection (2), reclassify any of the separate allegations within the inquiry as a complaint, and the complainant, the subject officer and the Commissioner shall be notified forthwith.

Personal record

(4) No reference shall be made in the personal record of any police officer to an inquiry resolved in accordance with subsection (2). 1984, c. 63, s. 8.

Police officer to be informed

9. The person in charge of the Bureau shall inform forthwith the subject officer of the substance of the complaint in the prescribed form, unless, in the opinion of such person, to do so might adversely affect any investigation of the complaint. 1984, c. 63, s. 9.

Informal resolution

10.—(1) The person in charge of the Bureau shall consider whether a complaint can be resolved informally and, with the consent of the complainant and the subject officer, may attempt to so resolve the complaint.

Record of informal resolution

(2) Where a complaint is resolved informally, a record shall be made of the manner in which the complaint was resolved and the complainant and the subject officer shall each signify in writing his agreement to such resolution.

Copy of record to be furnished

(3) A copy of a record made under subsection (2) shall be furnished forthwith to the Commissioner, the complainant and the subject officer.

Informal resolution

(4) A complaint may be resolved informally by the person in charge of the Bureau in accordance with the procedures in this section at any time during the course of or after an investigation.

Where complaint to continue

(5) Notwithstanding subsection (1), where the Commissioner is of the opinion that the informal resolution was obtained as a result of a misunderstanding, a threat or other improper pressure, the Commissioner may notify the person in charge of the Bureau that the complaint shall continue and give reasons therefor in writing to the person in charge of the Bureau, the subject officer, the complainant and the chief of police and in such event the complaint shall continue to be treated as a complaint under this Act.

Review of decision

(6) The decision of the Commissioner under subsection (5) shall be deemed to be made in the exercise of a statutory power of decision within the meaning of the *Judicial Review Procedure Act*. R.S.O. 1980, c. 224

Informal resolution by Commissioner

(7) A complaint may be resolved informally by the Commissioner in accordance with the procedures in this section at any time during the course of an investigation or review by the Commissioner.

No reference in personal record of subject officer

(8) No reference shall be made in the personal record of a subject officer to a complaint resolved under this section, except where misconduct has been admitted by the subject officer. 1984, c. 63, s. 10.

Investigation

11.—(1) Where a complaint is not resolved informally, the person in charge of the Bureau shall cause an investigation to be made forthwith into the complaint in accordance with prescribed procedures.

Interim reports

(2) The person in charge of the Bureau shall forward to the Commissioner, the complainant and the subject officer an interim report in the prescribed form providing a summary of the investigation to date not later than thirty days after receipt of the complaint and shall forward further interim reports to the same persons on a monthly basis during the course of the investigation.

Exception

(3) Notwithstanding subsection (2), the person in charge of the Bureau may decide not to make a report to the complainant or the subject officer where, in his opinion, to do so might adversely affect the investigation of the complaint or where there are no new matters to report, in which case the person in charge of the Bureau shall forthwith notify the Commissioner of the reasons for his decision.

Final report

(4) Where an investigation has been completed, the person in charge of the Bureau shall cause a final investigation report in the prescribed form to be prepared and shall forward a copy thereof to the Commissioner, the chief of police, the complainant and the subject officer.

Idem

(5) A final investigation report prepared under subsection (4) shall,

(a) contain a summary of the complaint and a description of the alleged misconduct by the subject officer;

(b) contain a summary of the investigation and of information obtained from the complainant, the subject officer and witnesses, if any; and

(c) contain a description and analysis of any physical evidence obtained.

Further investigation at request of Commissioner

(6) The Commissioner may, upon receipt of a final investigation report, request that the chief of police cause further investigation to be made into the complaint and the results of any such investigation shall be forwarded to the Commissioner. 1984, c. 63, s. 11.

Withdrawal of complaint

12.—(1) All complaints and inquiries shall be dealt with in accordance with this Act, and shall not be withdrawn except in accordance with this Act.

Notice

(2) A complainant may withdraw a complaint at any time by giving notice, in the prescribed form, to the person in charge of the Bureau, who shall forward a copy thereof to the Commissioner and the subject officer.

Where to continue as complaint

(3) Notwithstanding subsection (2), where the Commissioner is of the opinion that the complainant withdrew the complaint as a result of a misunderstanding, a threat or other improper pressure, the Commissioner may notify the person in charge of the Bureau that the complaint shall continue, and give reasons therefor, in writing, to the person in charge of the Bureau, the subject officer, the complainant and the chief of police and in such event the complaint shall continue to be treated as a complaint under this Act.

Review of decision

R.S.O. 1980, c. 224

(4) The decision of the Commissioner to cause the complaint to continue shall be deemed to be made in the exercise of a statutory power within the meaning of the *Judicial Review Procedure Act*.

Disciplinary action under R.S.O. 1980, c. 381

(5) Notwithstanding subsection (2), where a complaint has been withdrawn by a complainant, such withdrawal shall not prevent the chief of police from taking any disciplinary action that he could otherwise take under the *Police Act* and the regulations thereunder and the chief of police shall notify the Commissioner if any such action is taken and the result thereof. 1984, c. 63, s. 12.

Where complaint not to be dealt with

13.—(1) Where it appears to the chief of police that,

(a) a complaint is frivolous, vexatious or made in bad faith;

(b) a complaint is not within the jurisdiction of this Act; or

(c) a complaint is one that could or should be more appropriately dealt with under an Act other than this Act,

the chief of police may decide that the complaint or any part thereof not be dealt with under this Act.

Notice

(2) The chief of police shall notify the Commissioner, the complainant and the subject officer of any decision made under subsection (1).

Disciplinary action under R.S.O. 1980, c. 381

(3) Notwithstanding subsection (1), the decision of the chief of police shall not prevent the chief from taking any disciplinary action that he could otherwise take under the *Police Act* and the regulations thereunder.

Review by Commissioner

(4) The complainant may, within thirty days of receiving notification under subsection (2), request the Commissioner to review the decision made under subsection (1), in which case all the provisions of this Act relating to a review by the Commissioner apply with necessary modifications.

Extension of time

(5) Notwithstanding subsection (4), where the Commissioner is satisfied that there are reasonable grounds for granting an extension, the Commissioner may extend the time for requesting a review. 1984, c. 63, s. 13.

Powers and duties of chief of police

14.—(1) The chief of police shall review a final investigation report and he may order such further investigation as he considers advisable and may, unless he decides that no action is warranted,

(a) cause an information alleging the commission of an offence by the subject officer to be laid and refer the matter to the Crown attorney for prosecution;

(b) order that one or more of the allegations contained in the complaint be heard by a board of inquiry;

(c) cause disciplinary proceedings to be taken under the *Police Act* and the regulations thereunder; and

R.S.O. 1980, c. 381

(d) after giving the subject officer ten working days to reply, either orally or in writing, to the complaint, counsel or caution the subject officer regarding his conduct,

but where the chief of police takes action under clause (b), (c) or (d), he shall not take action under any other of those clauses.

Hearing not stayed

R.S.O. 1980, c. 381

(2) Where the chief of police causes an information to be laid under clause (1) (a), such action shall not stay any disciplinary proceedings under the *Police Act* or any hearing by a board of inquiry unless the presiding officer or the board, as the case may be, is of the opinion that the hearing should be stayed until the court proceedings have been concluded.

Review by Commissioner

(3) A subject officer may within thirty days of the taking of any action under clause (1) (d), request the Commissioner to review the action, in which case all the provisions of this Act relating to a review by the Commissioner shall apply with necessary modifications.

Extension of time

(4) Notwithstanding subsection (3), where the Commissioner is satisfied that there are reasonable grounds for granting an extension, the Commissioner may extend the time for requesting a review.

Expunging from personal record

(5) Any action taken under clause (1) (d) shall be expunged from the personal record of the subject officer upon the expiration of a period of two years during which no other disciplinary action has been noted on the record.

Notice of action taken

(6) The chief of police shall give forthwith written notice of any action taken by him under subsection (1) or of his decision that no action is warranted to the Commissioner, the complainant and the subject officer and, where his decision is that no action is warranted or he has taken action under clause (1) (d), the chief of police shall give his reasons therefor.

Designation by chief of police

(7) The chief of police may designate any police officer of the rank of inspector or higher to exercise any of his powers and perform any of his duties under this Act and the police officer so designated has the powers and duties set out in the designation and where any power is conditional on the opinion of the chief of police, the requisite opinion shall be that of the police officer so designated. 1984, c. 63, s. 14.

Application of s. 23

R.S.O. 1980, c. 381

15.—(1) Where the chief of police has caused disciplinary proceedings to be taken under the *Police Act* and the regulations thereunder, subsections 23 (6), (8), (13), (14) and (15) of this Act apply with necessary modifications to a hearing held in connection with such proceedings.

(2) The chief of police or, if he is not the person who holds a hearing referred to in subsection (1), the person who holds the hearing shall give forthwith written notice of his decision together with his reasons therefor to the Commissioner, the complainant and the subject officer. 1984, c. 63, s. 15. Notice of decision

16. Where a hearing referred to in subsection 15 (1) has been held and a penalty has been imposed upon a subject officer, the officer may appeal in accordance with the provisions of this Act and not as provided in the *Police Act* and the regulations thereunder. 1984, c. 63, s. 16. Police officer may appeal

R.S.O. 1980, c. 381

17.—(1) A notice of appeal under section 16 shall be served on the Commissioner and the chief of police within fifteen days after the subject officer receives notice of the penalty imposed, and the Commissioner shall notify the complainant forthwith. Notice of appeal

(2) Where a notice of appeal is filed after the time set out in subsection (1), the Commissioner shall assign, in accordance with the regulations, the matter to a member of the panel appointed on a recommendation made under subsection 4 (2) who may, if satisfied that there are reasonable grounds for doing so, extend the time for appealing and give such directions as he considers proper consequent upon the extension. 1984, c. 63, s. 17. Extension of time

18.—(1) Notwithstanding any other provision of this Act, the Commissioner may investigate the allegations in the complaint, Commissioner may investigate

(a) at any time after he receives the first interim report under subsection 11 (2) or the thirty-day period mentioned therein has expired;

(b) upon the request of the chief of police; or

(c) where he has reasonable grounds to believe that there has been undue delay or other exceptional circumstances in the conduct of an investigation under section 11.

(2) A decision to take action under clause (1) (c) shall be deemed to be made in the exercise of a statutory power within the meaning of the *Judicial Review Procedure Act*. Review of decision

R.S.O. 1980, c. 224

(3) The Commissioner shall forthwith notify the chief of police in writing of his intention to conduct an investigation under clause (1) (a) or (c) and shall give his reasons therefor in writing. Notice to chief of police

Idem

(4) Where the Commissioner conducts an investigation under subsection (1), he shall forward to the complainant, the subject officer, the person in charge of the Bureau and the chief of police an interim report in the prescribed form providing a summary of the investigation to date, not later than thirty days after he has given notification of his intention to conduct an investigation, and shall forward further interim reports to the same persons on a monthly basis during the course of the investigation, and upon the completion of his investigation he shall prepare a final investigation report and forward a copy thereof to the same persons.

Notice of action taken

(5) The chief of police, upon receipt of a final investigation report under subsection (4), shall review the report, together with any final investigation report prepared under subsection 11 (4), and shall make a decision in accordance with section 14 and shall notify all persons in accordance with subsection 14 (6).

Delegation

(6) The Commissioner may designate any person appointed under subsection 3 (3) to exercise any of his powers and perform any of his duties under this Act, and the person so designated has the powers and the duties set out in the designation, and where any power is conditional upon the opinion of the Commissioner, the requisite opinion shall be that of the designated person. 1984, c. 63, s. 18.

Request for review

19.—(1) Where a complainant is dissatisfied with the decision made on a disciplinary proceeding arising out of his complaint that is not a decision of a board of inquiry or with action taken by the chief of police under clause 14 (1) (d) or with a decision of the chief of police that no action is warranted, he may within thirty days of receipt of notification under subsection 14 (6) or 15 (2) request the Commissioner to review the matter.

Extension of time

(2) Notwithstanding subsection (1), where the Commissioner is satisfied that there are reasonable grounds for granting an extension the Commissioner may extend the time for requesting a review.

Hearing may be ordered

(3) Where the Commissioner receives a request under subsection (1), he shall review the matter and may, after such review, order a hearing by a board of inquiry if he believes that, in the public interest, such a hearing is required or he may decide to take no further action.

Notice

(4) The Commissioner shall give forthwith written notice to the chief of police, the complainant and the subject officer of

his decision under subsection (3) and, where his decision is to take no further action, shall give his reasons therefor.

Where appeal under s. 16

(5) Where a subject officer has appealed under section 16 a hearing ordered under subsection (3) shall be heard together with that appeal. 1984, c. 63, s. 19.

Powers on investigation or review

20.—(1) For the purposes of an investigation under section 18 or a review under section 19, the Commissioner may, where he has reasonable grounds to believe that it is necessary to do so in furtherance of the investigation or review, after informing the chief of police, enter a police station and examine therein books, papers, documents and things related to the complaint.

Powers on inquiry

R.S.O. 1980, c. 411

(2) For the purposes of an investigation or review, the Commissioner has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such investigation or review as if it were an inquiry under that Act.

Appointment of person to make investigation or review

(3) The Commissioner may, in writing, appoint a person to make any investigation or review he is authorized to make and the person so appointed has all the powers and duties of the Commissioner relating to the investigation and the review.

Identification

(4) The Commissioner shall issue a certificate of appointment to any person appointed to make an investigation or review under subsection (3), which certificate shall contain a photograph of the person appointed, and the person appointed, while exercising any powers or performing any duties in respect of the investigation or review, shall produce the certificate of appointment upon request.

Report

(5) The person appointed to make an investigation or review shall report the results of his investigation or review to the Commissioner.

Obstruction

(6) No person shall obstruct the Commissioner or a person appointed by him to make an investigation or review or withhold from him or conceal or destroy any books, papers, documents or things related to the investigation or review.

Search warrant

(7) Where a justice of the peace is satisfied upon an *ex parte* application by the Commissioner or by a person appointed by him under subsection (3) that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to an investigation or review, the justice of the peace may issue an order authorizing the person making the application, together with such persons as he calls upon to assist

him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between 6 a.m. and 9 p.m., standard time, unless the justice of the peace, by the order, otherwise authorizes.

Removal of books, etc.

(8) The Commissioner may, upon giving a receipt therefor, remove any books, papers, documents or things examined under subsection (1) or (7) relating to the investigation or review and shall with reasonable dispatch cause to be made copies of such books, papers or documents and return them promptly thereafter to the person from whom they were removed.

Admissibility of copies

(9) Any copy made as provided in subsection (8) and certified to be a true copy by the Commissioner is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.

Appointment of experts

(10) The Commissioner may appoint an expert to examine books, papers, documents or things examined under subsection (1) or (7). 1984, c. 63, s. 20.

Report

21.—(1) Where, after making a review, the Commissioner is of the opinion that a police practice or procedure should be altered, he shall report his opinion and recommendations to the Metropolitan Board of Commissioners of Police, the chief of police and the Metropolitan Toronto Police Association.

Idem

(2) Where, as a result of any matter dealt with under this Act, the Commissioner is of the opinion that a practice or procedure or law affecting the resolution or prevention of public complaints should be altered or implemented, he shall report his opinion and recommendations to the Metropolitan Board of Commissioners of Police, the chief of police and the Metropolitan Toronto Police Association.

Idem

(3) Within ninety days of receiving a report under subsection (1) or (2), the Metropolitan Board of Commissioners of Police shall forward such report along with their comments and any comments submitted to them by the chief of police or the Metropolitan Toronto Police Association, to the Attorney General, the Solicitor General and the Commissioner. 1984, c. 63, s. 21.

Where board of inquiry to be constituted

22.—(1) Where,

(a) the chief of police has ordered that a matter be heard by a board of inquiry;

(b) a police officer has appealed under section 16; or

(c) the Commissioner has, under subsection 19 (3), ordered a hearing,

a board of inquiry shall be constituted in accordance with this section.

Assignment to board of inquiry

(2) Where, in the opinion of the Commissioner, the hearing involves misconduct by a subject officer that is of a minor nature, he shall assign, in accordance with the regulations, a member of the panel who was appointed on a recommendation made under subsection 4 (2) to sit alone to conduct the hearing.

Idem

(3) Where, in the opinion of the Commissioner, the hearing involves misconduct by a subject officer that is of a serious nature, he shall assign, in accordance with the regulations, three members of the panel to conduct the hearing.

Constitution of board R.S.O. 1980, c. 381

(4) Where, following a disciplinary hearing under the *Police Act* a board of inquiry is to be constituted, the board shall be constituted in accordance with subsection (3).

Who shall be on board

(5) The chairman of a board of inquiry constituted under subsection (3) or (4) shall be a person appointed to the panel on a recommendation made under subsection 4 (2), one member shall be a person appointed to the panel on a recommendation made under subsection 4 (3) and one member shall be a person appointed to the panel on a recommendation made under subsection 4 (4).

Statement of alleged misconduct

(6) The chief of police, where he has ordered a hearing, and the Commissioner, where he has ordered a hearing, shall provide the parties with a concise statement of the allegations of misconduct to be heard by the board.

Record

(7) Where, following a hearing referred to in subsection 15 (1), a board of inquiry has been constituted, the chief of police shall forward the record of that hearing, including the transcript, all documents, evidence and exhibits considered at that hearing, to the board.

Costs of record

(8) Where the Commissioner has ordered the hearing he shall pay the costs of preparing the record. 1984, c. 63, s. 22.

When hearing *de novo* and when on record

23.—(1) The hearing before the board of inquiry shall be *de novo*, except where the chief of police has prepared a record under subsection 22 (7), in which case the hearing shall be on the record but the board may, in special circumstances, hear such evidence as the board considers advisable.

Parties

(2) The parties to a hearing shall include,

(a) the chief of police, in respect of appeals instituted by the subject officer under section 16; and

(b) the Attorney General, except where an appeal has been instituted by the subject officer under section 16.

Adding parties

(3) A party may be added by the board at any stage of the hearing upon such terms as the board considers proper.

Attorney General to have carriage

(4) The Attorney General, where he is a party to the hearing, has carriage of the matter.

Notice of hearing

(5) The board shall appoint a time for a hearing and give written notice thereof to the parties.

Opportunity to examine evidence

(6) The subject officer and the complainant shall be afforded an opportunity to examine before the hearing any physical or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Board not to communicate with party

(7) The board conducting a hearing shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Oral evidence

(8) The oral evidence given at the hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Adjournment for view

(9) The board may, where it appears to be in the interests of justice, direct that the board and the parties and their counsel or representatives shall have a view of any place or thing, and may adjourn the hearing for that purpose.

Only members at hearing to participate in decision

(10) No member of the board shall participate in a decision following the hearing unless he was present throughout the

hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision shall be given unless all members so present participate in the decision.

Decision

(11) A decision of a member of a board of inquiry sitting alone and a decision of a majority of the members of a board comprising three members is a decision of the board.

Release of documents

(12) Documents and things put in evidence at the hearing shall, upon the request of the person who produced them, be released to him within a reasonable time after the matter in issue has been finally determined.

Police officer not required to give evidence R.S.O. 1980, c. 484

(13) Notwithstanding section 12 of the *Statutory Powers Procedure Act*, the subject officer shall not be required to give evidence at the hearing nor shall any statement or answer required to be given by him in respect of the complaint made against him be admitted in evidence at the hearing, except with his consent.

Statement or admission not admissible in evidence

(14) Where the person in charge of the Bureau or the Commissioner attempts to resolve a complaint informally and the complaint is not so resolved, any statement or admission made during such attempt by the subject officer or by the complainant shall not be admitted in evidence at the hearing, except with the consent of the subject officer or the complainant, as the case may be.

Proof of misconduct

(15) No finding of misconduct by the subject officer shall be made unless the misconduct is proved beyond a reasonable doubt.

Imposition of penalty

(16) Where a board constituted under subsection 22 (2) finds the subject officer guilty of misconduct, it may,

(a) direct that days off not exceeding five days be forfeited;

(b) direct that pay not exceeding three days pay be forfeited; or

(c) reprimand the police officer.

Idem

(17) Where a board constituted under subsection 22 (3) finds the subject officer guilty of misconduct, it may,

(a) dismiss the police officer from the Metropolitan Police Force, whereupon the officer is thereby dismissed;

(b) direct that the police officer resign from the Metropolitan Police Force and, in default of resigning within seven days, be summarily dismissed;

(c) reduce the police officer in rank or gradation of rank and in pay in accordance with the rank to which he is reduced;

(d) direct that days off not exceeding twenty days be forfeited;

(e) direct that pay not exceeding five days pay be forfeited; or

(f) reprimand the police officer, which reprimand may be in lieu of or in addition to any other penalty imposed.

Notice of decision

(18) The board shall give forthwith written notice of its decision and the reasons therefor to the chief of police, the complainant, the subject officer, the Commissioner, the Solicitor General and the Attorney General.

No reference to hearing

(19) No reference to a hearing conducted by the board shall be made in the personal record of the subject officer unless the board has made a finding of misconduct.

Costs may be paid

(20) The Metropolitan Board of Commissioners of Police may, in such cases and to such extent as it thinks fit, pay any legal costs incurred by a subject officer in respect of a hearing conducted by a board and an appeal under section 24. 1984, c. 63, s. 23.

Appeal

24.—(1) A party to a hearing by a board may appeal within thirty days of the decision of the board to the Divisional Court.

Solicitor General and Attorney General entitled to be heard

(2) The Solicitor General, and the Attorney General where he is not entitled to appeal under subsection (1), are entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

What may be appealed

(3) An appeal under this section may be made on a question that is not a question of fact alone or from a penalty imposed under subsection 23 (17), or on both the question and the penalty. 1984, c. 63, s. 24.

How notice, etc., may be served

25. Any notice, report or other material required to be given, furnished, forwarded or otherwise served under this Act is sufficiently served if delivered personally or sent by

prepaid first class mail addressed to the person on whom service is required to be made at his last known or usual place of abode. 1984, c. 63, s. 25.

Matters confidential

26.—(1) Every person engaged in the administration of this Act and the regulations, including a member of the Metropolitan Police Force, shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties and shall not communicate any such matter to any other person except,

(a) as may be required in connection with the administration of this Act and the regulations or the *Police Act* and the regulations thereunder; R.S.O. 1980, c. 381

(b) as may be required for the due enforcement of the law;

(c) to his counsel; or

(d) with the consent of the person to whom the matter relates.

Testimony

(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, except at a hearing under this Act or in a disciplinary proceeding under the *Police Act* and the regulations thereunder.

What is inadmissible in evidence

(3) No record, report, writing or document arising out of a complaint is admissible or may be used in evidence in any civil suit or proceeding, except at a hearing under this Act or in a disciplinary proceeding under the *Police Act* and the regulations thereunder.

Idem

(4) No oral statement, answer or admission referred to in subsections 23 (13) and (14) is admissible or may be used in evidence in any civil suit or proceeding, except at a hearing under this Act or in a disciplinary proceeding under the *Police Act* and the regulations thereunder. 1984, c. 63, s. 26. R.S.O. 1980, c. 381

Application of 1984, c. 11, s. 146

27. Section 146 of the *Courts of Justice Act, 1984* (photography at court hearing) applies with necessary modifications to a board hearing. 1984, c. 63, s. 27.

R.S.O. 1980, c. 325 does not apply

28. The *Ombudsman Act* does not apply to anything done under this Act. 1984, c. 63, s. 28.

Agreement for contributions

29. The Attorney General, with the approval of the Lieutenant Governor in Council, and The Municipality of Metropolitan Toronto may enter into an agreement to provide for the payment by the municipality to the Treasurer of Ontario on such terms and conditions as may be agreed upon of contributions in respect of the moneys required for the purposes of this Act. 1984, c. 63, s. 29.

Offence

30. Any person who contravenes subsection 20 (6), subsection 26 (1) or section 27 is guilty of an offence and on conviction is liable to a fine of not more than $2,000. 1984, c. 63, s. 30.

Regulations

31. The Lieutenant Governor in Council may make regulations,

(a) respecting the reporting and publication of decisions of boards of inquiry;

(b) assigning duties to the Commissioner;

(c) establishing a system that provides for the assignment of panel members on a rotational basis;

(d) prescribing forms and providing for their use; and

(e) prescribing any matter that by this Act is required to be or is referred to as prescribed. 1984, c. 63, s. 31.

Advisory committee

32.—(1) There shall be a committee composed of,

(a) the Deputy Attorney General;

(b) the Deputy Solicitor General;

(c) the chairman of the Ontario Police Commission;

(d) the Commissioner;

(e) the Assistant Deputy Attorney General-Criminal Law; and

(f) such other persons as may be jointly appointed by the Attorney General and the Solicitor General.

Duties

(2) It is the duty of the committee,

(a) to maintain under review the practice and procedures under this Act;

(b) to receive and consider matters brought to the attention of the committee by any person having an interest in the operation of the system for handling complaints under this Act;

(c) to make such recommendations as the committee considers appropriate for the improvement of the system for handling complaints; and

(d) to perform such other duties or functions as the committee may be requested to perform by the Attorney General or the Solicitor General.

Recommendations

(3) Any recommendations made under clause (2) (c) shall be forwarded by the committee to both the Attorney General and the Solicitor General. 1984, c. 63, s. 32.

Recommendation of Attorney General

33. On or before the day that is three years after the day this Act comes into force, the Attorney General shall, after having reviewed the operation of the panel, the Board and the advisory committee referred to in sections 4 and 32 respectively, recommend to the Lieutenant Governor in Council whether those bodies should continue in existence or be terminated. 1984, c. 63, s. 33.

Repeal

34.—(1) The *Metropolitan Police Force Complaints Project Act, 1981*, being chapter 43, is repealed.

Proceedings continued under 1981, c. 43

(2) Notwithstanding subsection (1), the *Metropolitan Police Force Complaints Project Act, 1981* shall continue in force and apply to a complaint that is made before the day this Act comes into force, for the purpose of continuing the proceedings in respect of that complaint, but the proceedings at any Board hearing commenced after the day this Act comes into force shall be in accordance with the provisions of this Act.

Commencement

35. This Act comes into force on the 21st day of December, 1984.

Short title

36. The short title of this Act is the *Metropolitan Toronto Police Force Complaints Act, 1984*.

ONTARIO REGULATION 494/85

under the Metropolitan Toronto Police Force Complaints Act, 1984

GENERAL

FORMS

1. A complaint shall be recorded in Form 1. O. Reg. 494/85, s. 1.

2. The subject officer shall be informed of the substance of the complaint in Form 1A. O. Reg. 494/85, s. 2.

3. The statement to be furnished under subsection 6 (2) of the Act to the person making the complaint shall be in Form 2. O. Reg. 494/85, s. 3.

4. A record of an informal resolution of a complaint shall be in Form 3. O. Reg. 494/85, s. 4.

5. An interim or final investigation report under subsection 11 (2), 11 (4) or 18 (4) of the Act shall be in Form 4. O. Reg. 494/85, s. 5.

6. A notice of withdrawal of a complaint shall be in Form 5. O. Reg. 494/85, s. 6.

BUREAU INVESTIGATIONS

7. An investigation under section 11 of the Act shall be pursued quickly and diligently and the investigator shall endeavour to obtain all information that may have a bearing on the complaint. O. Reg. 494/85, s. 7.

8. All information and evidence obtained in the investigation shall be recorded and preserved. O. Reg. 494/85, s. 8.

9. The investigator shall endeavour to interview the person making the complaint and the subject officer and to obtain written statements from them. O. Reg. 494/85, s. 9.

10. The investigator shall endeavour to interview the witnesses named by the person making the complaint and the subject officer and witnesses located as a result of the investigation and to obtain written statements from such witnesses. O. Reg. 494/85, s. 10.

11. The investigator shall endeavour to obtain photographs of all personal injuries or damage to property alleged and any other information and evidence that is relevant to the investigation and could only be preserved by way of photographs. O. Reg. 494/85, s. 11.

12. Where appropriate, the investigator shall attend at the scene of the alleged misconduct and obtain any relevant evidence. O. Reg. 494/85, s. 12.

13. The investigator shall endeavour to obtain all hospital records and medical reports related to the complaint. O. Reg. 494/85, s. 13.

14. The investigator shall make notes during or as soon as possible after completion of each investigative step and the notes shall be preserved. O. Reg. 494/85, s. 14.

15. Any information, notes or evidence, except physical evidence, that is required to be preserved under sections 8 and 14 shall be retained for a period of two years after the complaint is finally disposed of. O. Reg. 494/85, s. 15.

ASSIGNMENT OF PANEL MEMBERS

16. The Commissioner shall prepare three lists of names of persons appointed to the panel under subsection 4 (1) of the Act; one consisting of those persons recommended under subsection 4 (2) of the Act; one consisting of those persons recommended under subsection 4 (3) of the Act and one consisting of those persons recommended under subsection 4 (4) of the Act. O. Reg. 494/85, s. 16.

17. For the purposes of sections 17 and 22 of the Act, the Commissioner shall assign, to consider extending time to appeal or to conduct a hearing, as the case may be, the person whose name appears at the beginning of the appropriate list or lists. O. Reg. 494/85, s. 17.

18. The name of a person assigned to conduct a hearing shall, following such assignment, be removed from the beginning of the list and added to the end of the list. O. Reg. 494/85, s. 18.

19. If a person is unable to perform his or her duties or is unable to act within a time determined by the Commissioner to be reasonable, the Commissioner, upon being so informed, shall assign as a replacement the next person on the list, and the name of the person who is so replaced shall remain at the beginning of the list. O. Reg. 494/85, s. 19.

20. If, at any time, a person resigns as a member of the panel, the name of that person shall be deleted from the appropriate list. O. Reg. 494/85, s. 20.

21. If, at any time, a new person is appointed to the panel, the name of that person shall be placed at the end of the appropriate list. O. Reg. 494/85, s. 21.

APPENDIX C

Schedule

CODE OF OFFENCES

1. Any chief of police, other police officer or constable commits an offence against discipline if he is guilty of,

(a) DISCREDITABLE CONDUCT, that is to say, if he,

(i) acts in a disorderly manner, or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force,

(ii) is guilty of oppressive or tyrannical conduct towards an inferior in rank,

(iii) uses profane, abusive or insulting language to any other member of a police force,

(iv) wilfully or negligently makes any false complaint or statement against any member of a police force,

(v) assaults any other member of a police force,

(vi) withholds or suppresses a complaint or report against a member of a police force,

(vii) is guilty of an indictable offence or an offence punishable upon summary conviction under the *Criminal Code* (Canada), or

(viii) contravenes any provision of the *Police Act* or the regulations;

(b) INSUBORDINATION, that is to say, if he,

(i) is insubordinate by word, act or demeanour, or

(ii) without lawful excuse, disobeys, omits or neglects to carry out any lawful order;

(c) NEGLECT OF DUTY, that is to say, if he,

(i) without lawful excuse, neglects or omits promptly and diligently to perform a duty as a member of the police force,

(ii) idles or gossips while on duty,

(iii) fails to work in accordance with orders, or leaves an area, detachment, detail or other place of duty, without due permission or sufficient cause,

(iv) by carelessness or neglect permits a prisoner to escape,

(v) fails, when knowing where an offender is to be found, to report him or to make due exertions for bringing him to justice,

(vi) fails to report a matter that it is his duty to report,

(vii) fails to report anything that he knows concerning a criminal or other charge, or fails to disclose any evidence that he, or any person within his knowledge, can give for or against any prisoner or defendant,

(viii) omits to make any necessary entry in any official document or book,

(ix) feigns or exaggerates sickness or injury to evade duty,

(x) is absent without leave from or late for parade, court or any other duty, without reasonable excuse, or

(xi) is improperly dressed, dirty or untidy in person, clothing or equipment while on duty;

(d) DECEIT, that is to say, if he,

(i) knowingly makes or signs a false statement in an official document or book,

(ii) wilfully or negligently makes a false, misleading or inaccurate statement pertaining to official duties, or

(iii) without lawful excuse destroys or mutilates an official document or record or alters or erases an entry therein;

(e) BREACH OF CONFIDENCE, that is to say, if he,

(i) divulges any matter which it is his duty to keep secret,

(ii) gives notice, directly or indirectly, to any person against whom any warrant or summons has been or is about to be issued, except in the

lawful execution of such warrant or service of such summons,

(iii) without proper authority communicates to the public press or to any unauthorized person any matter connected with the police force,

(iv) without proper authority shows to any person not a member of the police force or any unauthorized member of the force any book, or written or printed paper, document or report that is the property of the police force,

(v) makes any anonymous communication to the chief of police or superior officer or authority,

(vi) canvasses, except as authorized by the Act or the regulations, any person in respect of a matter concerning the police force,

(vii) signs or circulates a petition or statement in respect to a matter concerning the police force, except through the proper official channel or correspondence or established grievance procedure, or

(viii) calls or attends any unauthorized meeting to discuss any matter concerning the police force;

(*f*) CORRUPT PRACTICE, that is to say, if he,

(i) takes a bribe,

(ii) fails to account for or to make a prompt, true return of money or property received in an official capacity,

(iii) directly or indirectly solicits or receives a gratuity, present, pass, subscription or testimonial without the consent of the chief of police,

(iv) places himself under a pecuniary or other obligation to a licensee concerning the granting or refusing of whose licence a member of the police force may have to report or give evidence,

(v) improperly use his character and position as a member of the police force for private advantage,

(vi) in his capacity as a member of the police force writes, signs or gives, without the consent of the Chief of Police, a reference or recommendation to a member or former member of the police force, or any other police force, or

(vii) without the consent of the chief of police, supports in any way an application for a licence of any kind;

(*g*) UNLAWFUL OR UNNECESSARY EXERCISE OF AUTHORITY, that is to say, if he,

(i) without good and sufficient cause makes an unlawful or unnecessary arrest,

(ii) uses any unnecessary violence to a prisoner or other person contacted in the execution of duty, or

(iii) is uncivil to a member of the public;

(*h*) DAMAGE TO CLOTHING OR EQUIPMENT, that is to say, if he,

(i) wilfully or carelessly causes waste, loss or damage to any article of clothing or equipment, or to any book, document or other property of the police force, or

(ii) fails to report waste, loss or damage however caused;

(*i*) CONSUMING INTOXICATING LIQUOR IN A MANNER PREJUDICIAL TO DUTY, that is to say, if he,

(i) while on duty is unfit for duty through drinking intoxicating liquor, or

(ii) reports for duty and is unfit for duty through drinking intoxicating liquor, or

(iii) except with the consent of a superior officer or in the discharge of duty, drinks or receives from any other person intoxicating liquor on duty, or

(iv) demands, persuades or attempts to persuade another person to give or purchase or obtain for a member of the police force any intoxicating liquor, while on duty;

(*j*) LENDING MONEY TO A SUPERIOR; OR

(*k*) BORROWING MONEY FROM OR ACCEPTING A PRESENT FROM ANY INFERIOR IN RANK.

2. Any chief of police, other police officer or constable also commits an offence against discipline and shall be liable to punishment as provided in the regulations, if he connives at, abets or is knowingly an accessory to any offence against discipline under this code. R.R.O. 1980, Reg. 791, Sched.

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